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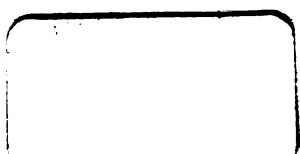
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ACTS AND LAWS

OF

HIS MAJESTY'S PROVINCE

OF

NEW HAMPSHIRE,

IN

NEW ENGLAND.

WITH SUNDRY ACTS OF PARLIAMENT.

By Order of the GOVERNOR, COUNCIL and ASSEMBLY,
Pass'd October 16th, 1759.

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LAWS OF NEW HAMPSHIRE.

AN ACT FOR ESTABLISHING AND REGULATING COURTS OF PUBLIC JUSTICE WITHIN THIS PROVINCE. — PASS'D 11TH OF WM. 3. WITH ADDITIONAL PARAGRAPHS OF OTHER ACTS RELATIVE THERETO.

Whereas the establishing and regulating courts of justice, doth very much tend to the honour and dignity of the crown, and to the ease and benefit of the Subject :

Be it therefore Enacted by the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That every justice of the peace in this province, is hereby authorized and impower'd, to take cognizance of, hear, try, and determine, any criminal offence against any penal law not exceeding the sum of forty shillings, and to issue all necessary process, and award execution thereon with legal cost ; as well as in all other cases where he is, or shall be so authorized by particular laws. But any person against whom such sentence shall be given, by one or more justices of the peace, out of the court of general sessions of the peace, may appeal from the same, to the next court of general sessions of the peace, to be held in and for said province ; the appellant recognizing with sureties, in a reasonable sum, not exceeding five pounds, for his appearance at the court appealed to, and prosecuting his appeal there with effect, and for performing and abiding the order or sentence of said court thereon, which shall be final ; and in the mean time to be of the good behaviour. The appellant in such cases is to observe the same rules in bringing forward the appeal, as is hereafter directed in civil cases, and to pay the same fee for entering such appeal ; and to the jury, if it shall be tried by them, as is paid for cases so tried at the inferior court — *Provided* such liberty of appealing shall not be construed to extend to such cases as by the particular laws aforesaid, are otherwise order'd.

Justices power in criminal cases, by virtue of a paragraph of an act passed 4th of G. 1. relating to sureties upon mean process, &c.

Appeal granted.

Proviso.

And every justice of the peace within this province, may cause to be stayed and arrested, all affrayers, rioters, disturbers or breakers of the peace, or any other who shall go armed offensively, or put his Majesty's subjects in fear, by menaces or threatening speeches : And upon view of such justice, confession of the

Justices power to stay affrayers, rioters &c. and to punish the breach of the peace ; by virtue of a paragraph in an act past

13th of W. 3d,
for punishing
criminal offend-
ers.

offender, or legal proof of any such offence, the justice may commit the offender to prison, until he or she find such sureties for the peace and good behaviour, as is required, according to the aggravations of the offence; and cause the arms or weapons so used by the offender, to be taken away, which shall be forfeited and sold for his Majesty's use. And may also punish the breach of the peace in any person, who shall smite, or strike another, by fine to the King, not exceeding twenty shillings; and require bond with sureties for the peace, till the next court of general sessions of the peace, or may bind the offender over to answer for said offence at said court, as the nature and circumstances of the offence may require.

An act of 13th of
W. 3d, for giving
aid to sheriffs,
&c.

That any of said justices, for the preservation of the peace, upon view of the breach thereof, or of any other transgression of the law proper to his cognizance, done, or committed by any person, or persons whatsoever, shall, and hereby is, empowered, in the absence of a sheriff, under-sheriff, or constable, to require any person, or persons, to apprehend and to bring before him, such offender or offenders: And every person, or persons that shall neglect, or refuse to obey any justice, or justices, in apprehending such offender, or offenders, being thereunto required as aforesaid, shall incur and suffer the like pains and penalties as is provided for refusing or neglecting to assist any sheriff, under-sheriff, or constable, in the execution of his office.

Justices power
in civil cases by
virtue of the act
for establishing
courts of justice
in this province,
past the 11th
of W. 3d.

And every justice of the peace in this province, in the town or parish where he dwells, shall be, and hereby is, authorized and empowered to take cognizance of, hear, try, and determine, any civil action, wherein the demand is for any sum not exceeding forty shillings, arising within this province, in which the title of land, or any real estate is not concerned. And to give judgment for the debt, or damage, according to the nature of the action, with the legal cost, and grant execution thereon — And for that purpose to issue all necessary processes, which with the execution aforesaid, shall be in the forms prescribed by law. All writs issued by any justice of the peace, shall be directed to the sheriff of said province, his under-sheriff or deputy, or to any constable of the town or parish where the person, on whom any such writ is to be served, resides; and shall be executed seven days before the day therein appointed for the trial, and return'd to the justice who issued the same, at or before the time of trial. And all pleas in abatement, and bar, in any such action, shall be made and enter'd, before any issuable plea is given.

Direction of
writs by 4th of G.
1. prescribing
forms. To be
served 7 days be-
fore the time of
trial.

Pleas in abate-
ment and bar to
be first made.

Judgment may
be given on de-
fault of appear-
ance.

And in case any person, on whom any writ issued by a justice of the peace, has been duly serv'd and return'd, shall not appear at the time of trial, either by himself or attorney, the justice may enter judgment, in the absence of such party, according to the nature of the action and evidence produced by the plaintiff — And may also give judgment, where any Plaintiff shall become non-suit, or discontinue his suit for the defendant, for his legal cost — *Provided*, nevertheless, that any party aggrieved at the judgment or sentence of any justice of the peace, in any of the cases aforesaid, may appeal from the same, to the next inferior

Liberty of ap-
pealing.

court of common pleas, to be held in and for said province; the party appealing, giving security before said justice, in a reasonable sum, to the appellee, to prosecute his appeal with effect, and to answer and pay such cost and damage, as shall be awarded against the appellant thereon, at the said court. And the party so appealing, shall observe the same rule in bringing forward his appeal, as is prescribed in this act, to appellants from judgments of the inferior court, and have the same advantage.

How the appeal is to be bro't forward, &c.

And be it further Enacted, That there shall be held and kept, by the justices of the peace within this province, or so many of them as shall be limited by the commission of the peace, to make a quorum, a court of general sessions of the peace at Portsmouth in said province, quarterly, every year; to begin on the second Tuesdays of March, June, September, and December: Who are hereby empower'd to hear and determine all matters relating to the conservation of the peace, and punishment of offenders, appeals from the sentences of justices in the criminal cases triable by them as aforesaid, and whatsoever is by said court cognizable according to law; and to give judgment and award execution therein.

Court of general sessions of the peace by virtue of the said act of the 11th of W. 3d. The time now stated by the act of the 31st of G. the 2d, for altering the times for holding the several courts of justice, &c.

And any person aggrieved at the sentence of the justices, in the court of general sessions of the peace, may appeal from such sentence, the matter being originally heard and tried in the said court, unto the next court of assize and general goal delivery, in said province, there to be finally issued. — *Provided* that no appeal shall be granted, unless it be claimed at the time of declaring the sentence, and the appellant enter into recognizance, with two sureties within the space of two hours next after, in a reasonable sum for his personal appearance at the court appealed to, and prosecution of his appeal there with effect, and to perform and abide by the order or sentence of the said court thereon, and to be of good behaviour in the mean time. And the party appealing is to remain in the hands or custody of an officer, until he or she shall have given such security, and the officer not to be allowed above twelve pence an hour for his time and attendance.

Liberty to appeal to the court of assize, by virtue of a paragraph in said act of 4th of G. 1st, relating to sureties upon mean process, &c.

Time and conditions of granting said appeal.

And such appellant shall, at his or her own cost, take out and present unto the court appealed to, an attested copy of the sentence, and of all the evidences, upon which the same was grounded: and the appellant shall pay the like fee, for the entry of his appeal in the court appealed to, as is by law required for entry of a civil action, and the like fee to the jury that shall try the same.

How the appellant shall bring forward his appeal.

And be it further Enacted, That there shall be held and kept at said Portsmouth, at four terms, an inferior court of common pleas, by four justices, to be appointed and commissioned thereto, by the Governor or Commander in chief for the time being, any three of whom to make a quorum: The said terms to begin on the first Tuesdays of March, June, September, and December, annually. Which said inferior court shall have cognizance of, hear, try, and determine, all civil actions, matters, and causes, triable at the common law, of what nature, kind, or quality soever, appeals from judgments of justices of the peace in civil actions, triable by them as aforesaid — Excepting that no action for the value of forty shillings, and under, shall be commenced at the said

Inferior court established by the said act of the 11th of W. 3d.

Time of the beginning of each term by said act, 31st of G. 2.

Actions of 40s. value and under, to be commenced elsewhere, title of land excepted, by virtue of the act for regulating trials in civil causes, past 13th of W. 3.

inferior court, unless the title of land, or any real estate, is concern'd.

Appeal granted by virtue of the act of 13th of W. 3. for regulating trials in civil causes.

And any party aggrieved at the judgment given in any inferior court of common pleas (the matter being originally heard and tried there) may appeal from such judgment, to the next superior court of judicature, to be held within and for this province. The appellant entering into a recognizance with sufficient sureties, to prosecute his appeal there with effect, and to answer and pay all intervening damages occasion'd to the appellee by such appeal, with additional costs, in case the judgment shall be affirmed. And no execution shall be awarded or issued, on any judgment, from which an appeal is granted. The said recognizance shall be taken before the said inferior court of common pleas whilst sitting, or before one or more of the justices of the same, with the clerk, out of court, at any time within seven days, next after the judgment given, if the appeal is claimed in court. But if the security for prosecuting such appeal, shall not be so given, the clerk of said court may issue execution as he may do, where no appeal is claimed.

Execution stayed

Security to be given to prosecute, &c.

The time when it may be given.

In default thereof execution may issue.

Appellant to produce a copy of the case.

And the appellant shall produce and give into the court where such appeal is to be tried, attested copies of the writ, judgment, and all the evidence filed in the inferior court of common pleas. And each party shall be allow'd the benefit of any new and farther plea or argument, in the trial on the appeal, and also any new evidence.

What shall be done if the appellant shall not produce it.

And in default of producing such copies, in manner and form aforesaid, the appellant shall be non-suited, and judgment shall be enter'd for the appellee, upon his producing the copies and evidence necessary for that purpose, according to the nature of the case.

Superior court of judicature, court of assize, &c. so called by several acts viz. 10th Ann against forging the bills of credit; the 4th of Geo. 1st relating to sureties, &c. another of the 4th of Geo. 1. relating to the office & duty of a coroner, &c. The beginning of each term now stated by the said act of 31st of Geo. 2.

And be it further Enacted, That there shall be held and kept at Portsmouth aforesaid, at two terms in every year, a superior court of judicature, court of assize and general goal delivery, by one chief justice, and three other justices, to be appointed and commissioned thereto by the Governor or Commander in chief for the time being, any three of whom to make a quorum. The one of said terms to begin on the third Tuesday of May, and the other on the second Tuesday of November, annually. Which court shall have cognizance of all pleas, real, personal, or mixt, or any civil action or cause, as well between his Majesty and any of his subjects as between one subject and another; whether the same do concern the realty, and relate to any right of freehold and inheritance, or whether the same do concern the personalty, and relate to matter of debt, contract, damage, or personal injury. And all mixt actions, which concern both realty and personalty, which shall be brought before them, by appeal, review, writ of error, *certiorari*, or in any legal way whatsoever. And all pleas of the crown, criminal actions, and causes, and whatsoever relates to the conservation of the peace, and punishment of offenders, whether the same be brought into said court by appeal, or any original process, according to law. And generally all other matters, as fully and amply to all intents and purposes whatsoever, as

The power of the King's Bench, &c.

the courts of King's Bench, common pleas and exchequer, within his Majesty's kingdom of England have, or ought to have. And are hereby empowered to give judgment therein, and award execution thereupon.

And any party, aggrieved at the judgment given in the said superior court, in any civil action, may appeal from the same, unto the Governor and Council, as a court of appeals, to hear and determine such cases—*Provided* the value appealed for, or matter in controversy, exceed the sum of one hundred pounds sterling. And that sufficient security be given by recognizance or otherways, before the said superior court, to prosecute the said appeal with effect, and to pay all intervening damages as aforesaid, in case the judgment appealed from, shall be affirmed, with additional costs.

Liberty of appeal to the Governor and Council as a court of appeals for £100 sterling.

And in civil actions tried at the said superior court, if the matter in controversy exceeds the true value of the sum of three hundred pounds sterling, either party to the suit, may appeal from the judgment of said court, to his Majesty in council, whether the said judgment be given on the appeal, or review at said court. And such appeals may be made at any time within fourteen days after sentence or judgment is given, sufficient security being given by the appellant, as the court shall direct, to the appellee, to answer such cost and damage as shall be sustain'd by the appeal, in case the judgment appealed from shall be affirm'd.

Liberty to appeal from the superior court to the King in council for £300 sterling.

Security to be given.

And be it further Enacted, That all original writs, or writs of review, for bringing any civil actions or suits to trial, in the said inferior court of common pleas, or superior court of judicature, shall be summons, capias or attachment, and shall be issued in the form directed in and by an act of this province, entituled "An act prescribing forms of writs in civil causes"; and shall be under the seal, and signed by the clerk, of the court, to which it shall be returnable, and shall be executed by the officer to whom it is directed, fourteen days at least before the day of the sitting of the court to which it is to be returned.

Original writs what sort to be.

Writs how issued and executed. Pass'd 4th of G. 1.

And the justices of the several courts aforesaid, are hereby authorized to make necessary rules, for the more orderly practice, and management of the business of said courts respectively: *Provided* such rules are not repugnant to the laws of this province, nor to the rules of common law in use here.

Courts power to make rules, by 13th W. 3.

And also as often as they shall judge it necessary and proper, to chuse and appoint a clerk, to officiate in such court, and to do all things belonging to that office, who shall be under oath, well and truly to execute and discharge the same.

And to chuse their clerk, by the 13th W. 3.

And be it further Enacted, That in all cases that are or shall be brought for trial in the said superior court of judicature, or inferior court of common pleas, where the forfeiture of the penalty of any obligation, with a condition, or penalty annexed to any articles, agreement, covenant, contract, charter-party or other specialty: or the forfeiture of any estate granted on condition, executed by deed of mortgage, or bargain and sale with defeazance, shall be found by verdict of a jury, or by default or confession of the obligor, mortgager, or vender, the justices of

Courts power of chancery.

the said courts respectively where the trial is had, are hereby empowered, and authorized, to moderate the rigour of the law, and in consideration of such cases, according to equity and good conscience, to chancer such forfeiture, and to enter up judgment for the just debt and damages, and to award execution accordingly. Only in real actions, upon mortgage, or bargain and sale with defeazance, the judgment to be conditional; that the mortgager or vender, his heirs, executors, administrators, or assigns, pay to the plaintiff, such sum as the court shall determine to be justly due thereon, within two months, to be computed from the date of the judgment in such case. And in default thereof that the plaintiff recover possession of the estate sued for, and have execution for the same accordingly.

Justices of each court to be sworn.

And each of the justices of the superior court of judicature, court of assize and general goal delivery, and each of the justices of the inferior court of common pleas, shall, before their entering upon the execution of their respective offices, take the following oath, to be administred by the Governor or Commander in chief for the time being, or such as shall be by him thereunto appointed.

Oath.

You swear, that well and truly you shall serve our sovereign Lord the King, and his people, in the office of a justice of the ——— court of ——— and that you will do equal law and execution of right, to all people, poor and rich, according to the laws in force within this province, and usage within the same; and in such cases as the law doth specially provide to be relieved in equity, and good conscience, without having regard to any person whomsoever. So help you God.

Pass'd 13th of W. 3.

AN ACT FOR REGULATING OF TRIALS IN CIVIL CASES.

Be it Enacted by the Lieutenant Governor, Council, and Representatives, convened in general assembly, and by the authority of the same:

Actions for more than 40s. to be commenced at the inferior court, excepting causes wherein the King is concern'd, which may be at either inf. or sup. court. All process to be in English. Not to abate for circumstantial errors.

That all actions triable at the common law, for any matter or demand above forty shillings value, as also titles of land, shall be first brought to the inferior court of common pleas, (excepting only actions or causes relating to the Crown, which may be tried at either the inferior court of common pleas, or the superior court of judicature.) And that all writs, processes, declarations, indictments, pleas, answers, replications, and entries, in the several courts of justice within this province, shall be in the English tongue, and no other. And that no summons, process, writ, judgment, or other proceedings in court, or course of justice, shall be abated, or arrested, or reversed for any kind of circumstantial errors, or mistakes, where the person and case may be rightly understood and intended by the court, nor through defect or want of form only; and the justices on motion made in court may order amendment thereof.

Costs to be granted on non-suits.

And it is further Enacted by the Authority aforesaid, That if any person shall cause process to be served upon another on pre-

tence of debt, trespass, or for any other matter or cause, and discontinue his suit, or be non-suit, the justices of the court, where such process is returnable, shall give judgment for the defendant to recover reasonable cost. And in case the defendant, in any suit, being duly served with process, and return thereof made to the court, where the same is returnable, do not appear by himself or attorney, his default shall be recorded, and judgment be entred up against him there-upon; unless before the jury be dismissed, he shall come into court, and move for a trial; in which case he shall be admitted thereto, upon paying down to the adverse party, the cost he hath been at so far; and the plaintiff shall pay for entering the action a-new.

Judgment by default.

And be it further Enacted, That the clerks of the several courts aforesaid, (and the clerks of the several towns in this province, which are above ten miles from Portsmouth) are hereby respectively impowered to grant summons for witnesses, directed to the parties, to be summoned for witnesses, which summons shall be made out in form following. That is to say:

To A. B. of C.

Greeting.

You are hereby required in his Majesty's name, to make your appearance before the justices of our Lord the King, at the next ——— court of ——— to be held at Portsmouth in New Hampshire, on the ——— To give evidence of what you know, relating to an action or plea of ——— then and there to be heard and tried betwixt *A. B. of C.* ——— Plaintiff, and *D. E. of H.* ——— Defendant: Hereof fail not as you will answer your default, under the pains and penalties in the law in that behalf made and provided. Dated at *P.* ——— the ——— day of ——— in the ——— Year of his Majesty's reign. *Annoque Domini,*

Summons for evidences.

A. D. clerk.

And be it further Enacted, That if any person who shall be served with lawful process or summons, to testify, depose, or give evidence concerning any case or matter depending in any of the courts aforesaid, and having tendered unto him or them such reasonable sum or sums of money for his or their costs and charges, as having regard to the distance of the places is necessary to be allowed in that behalf, do not appear according to the tenor of the process or summons, having no lawful or reasonable let or impediment to the contrary, that then the party so making default, shall, for every such offence, lose and forfeit forty shillings, and shall yield further recompence to the party aggrieved, according to the loss and hindrance that he shall sustain by reason of the non-appearance of such witness or witnesses; the said forfeiture and damage to be recovered by the party so aggrieved against the said offender or offenders, by action of debt in the inferior court of common pleas within this province, wherein no essoign, protection, or wager of law shall be allowed: And two shillings per diem shall be accounted due satisfaction to any witness for his travel and expences, and no more, to be allowed in civil cases; and if such witnesses live within three miles of the place of the courts sitting whereto he is summoned, and be not to pass any

Penalty for evidences not attending.

How to be recovered.

Witnesses wages.

Ceremony in swearing.	ferry, then one shilling and six pence per diem shall be accounted sufficient. And no person serving as a justice, juror, witness, or otherwise, shall be required to use any other ceremony in taking of their respective oaths than lifting up the hand, as hath been accustomed.
Execution not to be granted in twenty-four hours.	<i>And be it further Enacted,</i> That execution in any case shall not be granted, until the expiration of twenty-four hours next after the entering up of judgment; and that no person imprisoned upon mean process, shall be held in prison upon such process above the space of thirty days next after the rising of the court, where the same is returnable, notwithstanding judgment there-upon be recovered, unless such person be continued there by having his body taken by execution: Nor shall the prison-keeper discharge any such prisoner, having judgment entred up against him within the said space of thirty days after the court's rising, to the intent his body may be taken in execution, but by special order of the party at whose suit he stands committed, signified in writing under his hand: Nor shall any goods or other estate attached to respond the judgment that shall be recovered on suit brought, be released or discharged from such arrest, until the expiration of thirty days next after rendering of judgment for the plaintiff in such suit, to the intent he may take the same by execution for satisfying such judgment in whole or in part, so far as the value thereof can extend, if he think fit, unless the judgment be sooner or otherwise satisfied.
Persons imprisoned on mean process, not to be discharged till 30 days after judgment.	
Nor goods attached.	
Liberty to review in each court.	<i>And be it further Enacted by the Authority aforesaid,</i> That it shall be in the liberty of the party aggrieved at the judgment given in the inferior court of common pleas, or in the superior court of judicature respectively, by new process, to review the said case once in each court; and the party bringing such action of review shall produce and present attested copies of the writ, judgment, and of all the evidences on file in the former trial, and each party shall have the benefit of any new and further plea or argument and evidence.
Party reviewing to bring the copy of the case.	
Limitation of a review.	<i>Provided,</i> No action of review shall be brought after the expiration of three years, from the time of rendering the judgment to be reviewed.
Saving.	<i>Saving</i> unto any infant, feme covert, or person <i>non compos mentis</i> , imprisoned, in captivity, or out of this province, the term of three years next after their coming of full age, or such imperfection removed to bring his or her action of review, and not afterward.
Execution not to be stayed.	<i>And be it further Enacted,</i> That execution shall not be stayed or suspended for, or by reason of any process of review.
An act pass'd 4th G. 1. All pleas in abatement or bar to be made originally in the inferior court.	<i>And be it further Enacted,</i> That all pleas in abatement or bar, shall be made originally in the inferior court, in suits there brought, and at the first bringing forward thereof, before any issuable plea made. And when a writ shall by judgment of court be abated, or bar'd; and the plaintiff or defendant appeals from such judgment to the superior court of judicature: If upon hearing the appeal, the superior court, notwithstanding the pleas made in abatement or bar, adjudge the writ to be good and well brought, they shall reverse the judgment of the inferior court, and award to the ap-
Upon reversal of judgment in abatement or bar, the cause to be sent down to the inferior court.	

pellant his whole cost, at both courts; and the next session of the inferior court holden for this province, shall proceed to trial of the merit of the cause upon the same writ, without any delay; a new entry thereof being made.

And all goods and estate attached, and sureties or bail given, shall continue and be alike responsible in manner, as is by law provided, to satisfy the principal judgment upon such trial, as if no intermediate judgment had been rendered, or given. And the same rule and method to be observed in appeals to be made from the judgment in abatement or bar, given by any justice of the peace, to the inferior court of common pleas: Any law, usage, or custom to the contrary notwithstanding.

Goods, estate and bail to stand good.

The like rules in appeals from a justice.

Saving always, That in suits wherein the King is concerned, upon the superior court's reversal of any judgment in abatement or bar, the said court shall proceed to try the cause.

Saving.

And be it further Enacted by the Authority aforesaid, That if any person having appealed, and given security for prosecution thereof, shall neglect to prosecute the same with effect in manner as the law provides, the party that obtained the judgment in the inferior court of common pleas, entring his complaint in the superior court of judicature, court of assize, and general goal delivery, to which such appeal did lye, and producing attested copies of the judgment, appeal and recognizance given for prosecution thereof, the justices of the said superior court of judicature, court of assize, and general goal delivery, shall affirm such judgment of the inferior court of common pleas, with the cost arising upon the suit there, and grant further cost for entring and prosecuting the complaint, as aforesaid, and award execution accordingly: the fee to be paid for the entring such complaint, shall be the same as for entring an action, and the parties attendance and charges the same as the law allows in cases tried; and the same rules shall be observed in all other like cases of appeals in civil actions. The court appeal'd to is hereby authorized to enter judgment upon complaint in form aforesaid.

How a person that appeals from the inferior court, and doth not prosecute his appeal shall be prosecuted.

And be it further Enacted by the Authority aforesaid, That all recognizances given for prosecuting of appeals, as aforesaid, shall remain good for the benefit of the parties respectively for whom they were taken, to bring a suit thereon, to recover all intervening damages occasioned by such parties being delayed from the time of rendering the first judgment, unto the time when such appeal should have been tried. And the sureties in such recognizance named, shall be liable and obliged to satisfy the judgment given for such intervening damages, with the additional cost of suit, in case of the principal's avoidance, and return made of *non est inventus*, upon the execution granted against him, and the judgment for the same shall be affirmed against sureties, and execution be awarded accordingly, as is by law provided referring to sureties upon mean process.

Bonds for prosecuting appeals to remain good.

Sureties to be liable.

Provided, That such sureties be served with a writ of *scire facias*, within twelve months next after rendering of final judgment upon the trial of such recognizance, and not afterward.

Scire facias against the surety to be served in twelve months.

Pass'd the 13th
of W. 3.

AN ACT FOR TAKING AFFIDAVITS OUT OF COURT.

Forasmuch as it is often necessary, that witnesses in civil causes be sworn out of court, when by reason of their going to Sea, living more than twenty miles distance from the place where the cause is to be tried, age, sickness, or other bodily infirmity, they are rendered incapable of travel, and appearing in person at the court : To the intent therefore that all witnesses may indifferently testify their certain knowledge, and the whole truth in the cause they are to speak unto :

Be it Enacted by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Adverse party to
be notified.

That for any the reasons aforesaid, and not otherwise, every justice of the peace, or others lawfully commissioned, or empowered thereto, by two or more of the justices of the superior or inferior court respectively, may take affidavits out of court, so as a notification with reasonable time, be first made out and delivered to the adverse party, (if within twenty miles of the place) or left at the place of his dwelling, or usual abode, to be present at the time of taking such affidavit, if he think fit ; and every such evidence shall be carefully examined, and cautioned to testify the whole truth : And being sworn, the justice shall attest the same with the day, month, and year of the caption thereof ; and that the adverse party was present, (if so) or that a notification was sent him, and shall seal up the testimony, and deliver it to the party, (if desired) at whose request it was taken : And no person interested shall write or draw up the testimony of any witness, in such cause, nor any attorney in his client's cause : And if it manifestly appear any testimony to be written or drawn up by any interested, or the attorney in the cause, or be returned from any justice of the peace, by other hand than his hand, into the court, where the same is to be used, unsealed, or the seal having been broken up, all such testimonies shall be rejected by the court, and be utterly void, and of no effect in law.

No person inter-
ested, or the at-
torney to write
evidences.

Affidavits to be
returned into the
court sealed up.

Justices to grant
summons for
witnesses.

And be it further Enacted by the Authority aforesaid, That every justice of the peace shall be, and hereby is empowered upon request to him made, to grant summons for the appearing of any witness before him, in any civil, or criminal cause, where such witness is bound to sea, before the time of trial, and to take his deposition in such cause, the adverse party being present, or notification sent him, as aforesaid.

Witnesses to
bonds, &c. to be
sworn without
notification.

Provided nevertheless, That witnesses to bonds, specialties, letters of attorney, and other instruments in writing under the hand of the party executing the same, or to accompts, or testimonies relating to persons out of this government ; or to be sent beyond sea, may be sworn without such notification, as aforesaid.

Affidavits in per-
petuam rei me-
moriæ, to be

And be it further Enacted by the Authority aforesaid, That all affidavits relating to the possession of any houses or lands, or any

other matter, in *perpetuam rei memoriam*, shall be made and taken before some court of record, or two or more justices of the peace, sworn in court, or before two justices.
quorum unus.

And it is further Enacted, That all persons forswearing themselves in any such affidavits taken as aforesaid, shall incur the same penalties, as if they had been taken in open court. Perjury.

AN ACT FOR THE PUNISHING CRIMINAL OFFENDERS.

Pass'd the 13th
of W. 3.

Be it Enacted by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That if any person or persons shall profanely swear, or curse, in the hearing of any justice of the peace, or shall be thereof convicted by the oaths of two witnesses, or confession of the party before any justice of the peace; every such offender shall pay a fine of one shilling; which fine shall be for the use of the poor of the town where the offence was committed. And if the offender be not able to pay the said sum, then to be set in the stocks, not exceeding two hours. And if any person shall utter more profane oaths or curses at the same time, and in hearing of the same persons, he shall pay to the use aforesaid, the sum of two shillings for every oath or curse, after the first, or be set in the stocks, not exceeding three hours: *Provided*, it be proved against the offender within thirty days after the offence is committed. Cursing and swearing.

Further, Be it Enacted by the Authority aforesaid, That every person convicted of drunkenness, by view of any justice of peace, confession of the party, or oaths of two witnesses; such person so convicted shall pay a fine of five shillings to the use of the poor, where such offence is committed; and if the offender be unable to pay said sum, to be set in the stocks, not exceeding three hours, at the discretion of the justice before whom the conviction shall be; and upon a second conviction of drunkenness, every such offender, over and above the penalty aforesaid, shall be bound with one sufficient surety, in the sum of ten pounds, with condition for his good behaviour; and for want of such security, he shall be sent to the common goal, until he find the same. *Provided*, he be convicted thereof within six months after the offence committed. And the justice or justices are hereby impowered, and authorized, to restrain, or commit the offender until said fine be satisfied; the fine to be delivered to the select-men or overseers of the poor, as abovesaid. Presumption.

It is further Enacted by the Authority aforesaid, That whosoever shall steal, or purloin any money, goods, or chattels, being thereof convicted by confession, or sufficient witness upon oath; every such offender shall forfeit treble the value of the money, goods or chattels so stolen or purloined, unto the owner, or owners thereof: And be further punished by fine, or whipping, at Drunkenness.

Theft.

the discretion of the court or justices that have cognizance of such offence, not exceeding the sum of five pounds, or twenty stripes: And if such offender be unable to make restitution, or pay such three fold damages, such offender shall be enjoined to make satisfaction by service: and the prosecutor shall be, and hereby is impowered to dispose of said offender in service to any of his Majesty's subjects, for such term as shall be assigned by the court or justice, before whom the prosecution was. And every justice of the peace in this province, is hereby authorized and impowered to hear and determine all offences against this law: Provided the damage exceed not the sum of forty shillings.

Fornication.

Be it further Enacted by the Authority aforesaid, That if any man commit fornication with any single woman, upon due conviction thereof, they shall be both fined unto his Majesty, not exceeding fifty shillings a piece, or be corporally punished by whipping, not exceeding ten stripes a piece, at the discretion of the sessions of the peace, who shall have cognizance of the offence.

Reputed father of a bastard.

And he that is accused by any woman to be the father of a bastard child, begotten of her body, she continuing constant in her accusation, being examined upon oath, and put upon the discovery of the truth in the time of her travail by the midwife, who is required to do the same; he shall be adjudged the reputed father of such child notwithstanding his denial: and stand charged with the maintenance thereof, with the assistance of the mother, as the justices in the quarter sessions shall order; and shall give good security for the same, and to secure the town from charge for its maintenance where such child shall happen to be born; or shall be committed to prison, until he find such sureties, as the sessions require; unless the pleas and proofs made and produced in behalf of the man accused, and other circumstances be such as the justices of the quarter sessions shall see cause to judge him innocent, and acquit him thereof, and otherwise dispose of the child. And every justice of peace, at his discretion, may bind to the next quarter sessions of the peace, him that is charged to have begotten a bastard child; and if the woman be not then delivered, the sessions may order the continuance or renewal of his bond, that he may be forth coming when the child shall be born.

Lying and Libelling.

And it is further Enacted by the Authority aforesaid, That if any person or persons of the age of fourteen years or upwards, shall wittingly or willingly make or publish any lie or libel, tending to the defamation or damage of any particular person; make or spread any false news, or reports, with intent to abuse and deceive others; every such person or persons, that shall offend in any of the particulars before mentioned, and being duly convicted for the same before one or more justices of the peace, shall be fined according to the degree of the offence, not exceeding twenty shillings for the first offence, and find surety or sureties for their good behavior; and if the party be unable to pay said fine, and just cost and fees, then to be set in the stocks, not exceeding three hours, or punished by whipping, at the discretion of the justice, or justices before whom the conviction shall be, according to the nature of the offence: and the said justice or jus-

Punishment.

tices may restrain and commit the offender, until he pay the said fine, and find surety or sureties for the good behaviour; or may cause the fine to be levied by distress and sale of the offenders Goods. And the party or parties grieved or injured by reason of any offences aforesaid, may take his, her, or their suit against any such offender or offenders for damages in any court proper to try the same.

The party injured may have an action for damages.

And be it further Enacted by the Authority aforesaid, That if any person or persons, either by the subordination, unlawful procurement, reward, sinister perswasion, or means of any other; or by their own act, consent or agreement, shall wilfully and corruptly commit any manner of wilful perjury by his or their deposition in any court of record, or being examined, *ad perpetuam rei memoriam*, every person and persons so offending, and being thereof duly convict, or attainted by law, shall for his or their offence lose and forfeit twenty pounds; the one moiety thereof unto his Majesty, and the other moiety to such person or persons as shall be grieved, hindred or molested by reason of any such offence, that shall sue for the same by action of debt, bill, plaint, information, or otherwise in any court of record; in the which no wager of law, essoign, protection, or injunction to be allowed: And also to have imprisonment by the space of six months, without bail or mainprize. And the oath of such person or persons so offending, not to be received in any court of record, until such time as the judgment given against the said person or persons, shall be reversed by attain or otherwise; and upon every such reversal, the parties aggrieved to recover his or their damages against all and every such person and persons, as did procure the said judgment so reversed, to be given against them or any of them, by action, or actions, upon his or their case or cases; according to the course of the common law.

Wilful perjury.

Punishment.

Such person's oath not to be received, &c.

And if it happen the said offender or offenders, so offending, not to have any goods or chattels, to the value of twenty pounds, that then he or they be set on the pillory by the space of one whole hour, in some public place where the offender shall be convicted, or next adjoining to the place where the offence was committed, and to have both his ears nailed; and from thenceforth to be discredited and disabled for ever to be sworn in any court of record, until such time as the judgment shall be reversed.

How to be punished for want of goods, &c.

And all and every person and persons who shall unlawfully and corruptly procure any witness or witnesses, by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever; to commit any wilful and corrupt perjury, in any matter or cause whatsoever depending; or that shall depend in suit and variance by any writ, action, bill, complaint or information in any court of record; or to testify in *perpetuam rei memoriam*: Every such offender, being thereof duly convict or attainted by law, shall for his or their offence be proceeded against, and suffer the like pains, penalties, forfeitures, and disability in all respects, as above-mentioned.

Punishment of such as procure persons to commit wilful perjury.

Pass'd 4th G. 1.

AN ACT AGAINST MURDER, &c.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Murder. That whosoever shall commit wilful murder upon premeditated malice, or hatred, and be thereof convicted; the person or persons so offending, shall be put to death.

Rape. *Be it further Enacted by the Authority aforesaid,* That if any man shall ravish any woman, committing carnal copulation with her by force against her will: Or if any man shall unlawfully, and carnally know and abuse any woman child under the age of ten years; every person or persons so offending in either of the cases afore-mentioned, being thereof convicted, shall be accounted felons, and shall be adjudged to suffer the pains of death, as in cases of felony.

And for avoiding of the detestable and abominable sin of buggery with mankind, or beast, which is contrary to the very light of nature:

Buggery. *Be it Enacted by the Authority aforesaid,* That the same offence be adjudged felony; and such order and form of process therein to be used against the offenders as in cases of felony. And that every man being duly convicted of lying with man-kind as he lyeth with a woman; and every man or woman that shall have carnal copulation with any beast or brute creature, the offender and offenders in either the cases before-mentioned, shall suffer the pains of death, and the beast shall be slain and burned.

Blasphemy. *And be it likewise Enacted by the Authority aforesaid,* That if any person shall presume wilfully to blaspheme the holy name of God, Father, Son, or Holy Ghost, either by denying, cursing or reproaching the true God, his creation or government of the world; or by denying, cursing, or reproaching the holy word of God, that is, the canonical scriptures, contained in the books of the old and new testament, namely, Genesis, Exodus, Leviticus, Numbers, Deuteronomy, Joshua, Judges, Ruth, Samuel, Samuel, Kings, Kings, Chronicles, Chronicles, Ezra, Nehemiah, Easter, Job, Psalms, Proverbs, Ecclesiastes, Solomon's Song, Isaiah, Jeremiah, Lamentations, Ezekiel, Daniel, Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habbakkuk, Zephaniah, Haggai, Zechariah, Malachi. Matthew, Mark, Luke, John, Acts, Romans, Corinthians, Corinthians, Galatians, Ephesians, Philippians, Colossians, Thessalonians, Thessalonians, Timothy, Timothy, Titus, Philemon, Hebrews, James, Peter, Peter, John, John, John, Jude, Revelations; every one so offending shall be punished by imprisonment, not exceeding six months, and until they find sureties for their good behaviour, by setting in the pillory, by whipping, boaring through the tongue with a red hot iron, or setting upon the gallows with a rope about their neck, at the discretion of the court of assize and general goal delivery, before which the trial shall be, according to the circumstances, which may aggravate or alleviate the offence.

Canonical
books of scrip-
ture.

Punishment.

Provided, that no more than two of the fore-mentioned punishments, shall be inflicted for one and the same fact. But two punishments for one fact.

Be it further Enacted by the Authority aforesaid, That if any person shall commit burglary by breaking up any dwelling-house, ware-house, shop, mill, malt-house, barn, out-house; or any ship, or other vessel, lying within this province; every person so offending shall suffer the pains of death. Burglary.

Be it further Enacted by the Authority aforesaid, That if any person of the age of sixteen years and upwards, shall willingly and maliciously by day or night, burn the dwelling-house of another, or other parcel thereof, or any house built for public use, any barn having corn, grain, or hay therein, any malt-house, mill, shop, or ship; the person so offending, as aforesaid, shall be deemed, and adjudged to be a felon, and shall suffer the pains of death accordingly. Burning Houses, &c.

AN ACT TO PREVENT THE DESTROYING AND MURDERING OF BASTARD CHILDREN. Pass'd 13th of Ann.

Whereas many lewd women that have been delivered of bastard children, to avoid their shame, and to escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women to alledge that the said Child was born dead: Whereas it falleth out sometimes, (altho' hardly it is to be proved) that the said child or children were murdered by the said women their lewd mothers, or by their assent or procurement:

Be it therefore Enacted by the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That if any woman be delivered of any issue of her body, male or female, which if it were born alive should by law be a bastard, and the endeavour privately, either by drowning, or secret burying thereof, or any other way, either by her self, or the procuring of others so to conceal the death thereof, that it may not come to light, whether it were born alive or not, but be concealed; in every such case the mother so offending shall suffer death, as in case of murder, except such mother can make proof, by one witness at the least, that the child whose death was by her so intended to be concealed, was born dead. No bastard child to be buried privately.

AN ACT AGAINST RECEIVING OF STOLEN GOODS.

Pass'd 13th of Ann.

Whereas divers lewd and evil-minded persons for the sake of filthy Lucre, do frequently receive from Indians, Molattos, Negroes, and other suspected persons, money and goods stolen, or

obtained by other indirect and unlawful ways and means, thereby encouraging of theft :

For Redress whereof ;

Be it declared and enacted by the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

Persons receiving or buying stolen goods, &c. to make restitution.

If unable to make restitution to be corporally punished.

Punishment of the person stealing, &c.

That every person whosoever which shall presume either openly or privately, to buy or receive of or from any Indian, Molatto, or Negro servant or slave ; or of any known, dissolute, lewd and disorderly person, of whom there is just cause of suspicion ; any money, goods, wares, merchandizes, or provisions ; and it appear the same money, goods, wares, merchandizes or provisions have been stolen, gotten or obtained by any indirect or unlawful ways or means : every person so offending, and being thereof convicted, shall be sentenced to restore all such money, goods, wares, merchandizes or provisions, unto the party injured in specie (if not altered) and also forfeit to the said party the value thereof over and above ; or double the value, where the same are disposed of or made away. And if such offender be unable to make such restitution and satisfaction, he or she shall, and hereby is, enjoined to make the same by service, and may be disposed of for that purpose, as the justices of the court, who shall have cognizance of the offence, shall order, as in cases of theft, and be further punished by whipping, not exceeding twenty stripes, at the discretion of the court. And the Indian, Negro, Molatto, or other suspicious person as aforesaid, of or from whom such money, goods, wares, merchandizes or provisions shall be received or bought, shall be punished by whipping, not exceeding twenty stripes ; and be further prosecuted as the law directs in case of theft ; unless where such money, goods, or provisions shall be taken from the master of such person.

Pass'd the 4th of G. 1.

AN ACT FOR THE SETTLEMENT AND DISTRIBUTION OF THE ESTATES OF INTESTATES.

Whereas estates in these plantations do consist chiefly of lands, which have been subdued and brought to improvement by the industry and labour of the proprietors, with the assistance of their children ; the younger children generally having been longest, and most serviceable unto their parents in that behalf, who have not personal estate to give out unto them in portions, or otherwise to recompence their labour ;

Be it therefore Enacted and Ordained by the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Persons seized of lands in fee simple may dispose of the same by will.

That every person lawfully seized of any lands, tenements or hereditaments within this province, in his own proper right in fee simple, shall have power to give, dispose, and devise as well by

his last will and testament in writing, as otherwise by any act executed in his life: All such lands, tenements, and hereditaments to and among his children, or others, as he shall think fit at his pleasure. And if no such disposition, gift or devise be made by the owner of any such lands, tenements and hereditaments, the same shall be subject to a division, with his personal estate, and be alike distributed according to the rules herein after expressed, for intestate estates.

And when and so often as it shall happen, That any person dies intestate, administration of such intestates, goods, and estate shall be granted unto the widow, or next of kin unto the intestate, or both, as the judge for probate for wills, and granting of administrations shall think fit, who shall thereupon take bond with sureties in manner as is directed by the statute of the twenty-second and twenty-third of Charles the second. And shall and may proceed to call such administrators to account for and touching the goods of the intestate; and upon due hearing and consideration thereof, (debts, funeral, and just expences of all sorts being first allowed) the said judge shall, and hereby is fully empowered to order and make a just distribution of the surplusage, or remaining goods and estate, as well real as personal, in manner following: That is to say, One third part of the personal estate to the wife of the intestate for ever; besides her dower or thirds in the houses and lands during life; where such wife shall not be otherwise endowed before marriage: And all the residue of the real and personal estate, by equal portions, to and among his children; and such as shall legally represent them; (if any of them be dead) other than such children, who shall have any estate by settlement of the intestate in his life time, equal to the other shares; children advanced by settlement, or portions not equal to the others shares, to have so much of the surplusage, as shall make the estate of all to be equal, except the eldest son then surviving, where there is no issue of the first born, or of any other elder son: who shall have two shares, or a double portion of the whole: and where there are no sons, the daughters shall inherit as coparceners. The division of the houses and lands to be made by five sufficient freeholders upon oath, or any three of them, to be appointed and sworn by the judge for that end; unless where all the parties interested in any estate, being legally capable to act, shall mutually agree of a division among themselves, and present the same in writing under their hands and seals: in which case such agreement shall be accepted, and allowed for a settlement of such estate, and be accounted valid in law, being acknowledged by the parties subscribing before the judge, and put upon record.

Provided nevertheless, That where any estate in houses and lands cannot be divided among all the children without great prejudice to, or spoiling of the whole, being so represented and made to appear unto the said judge, the judge may order the whole to the eldest son, if he accept it, or to any other of the sons successively, upon his refusal, he paying unto the other children of the deceased, their equal and proportionable parts or shares of the true value of such houses and lands, upon a just apprizement

Administration
how to be
granted.

Distribution.

Parties of full
age may divide
themselves.

Houses and
lands to be
ordered to the
eldest son, that
cannot be divided
without damage.

thereof to be made by three sufficient freeholders upon oath, to be appointed and sworn, as aforesaid ; or giving good security to pay the same in some convenient time, as the said judge shall limit, making reasonable allowance in the interim, not exceeding six per cent per annum. And if any of the children happen to die, before he or she come of age, or be married, the portion of such child deceased shall be equally divided among the survivors. And in case there be no children, nor any legal representative of them, then one moiety of the personal estate shall be allotted to the wife of the intestate for ever ; and one third of the real estate for term of life. The residue both of real and personal estate, equally to every of the next of kin of the intestate in equal degree, and those who legally represent them : No representatives to be admitted among collaterals after brothers and sisters children. And if there be no wife, all shall be distributed among the children ; and if no child, to the next of kin to the intestate in equal degree, and their legal representatives, as aforesaid ; and in no other manner whatsoever. And every one to whom any share shall be allotted, shall give bond with sureties before the said judge of probate, if debts afterwards be made to appear, to refund and pay back to the administrator his or her rateable part thereof, and of the administrator's charges ; the widow's thirds or dower in the real estate at the expiration of her term, to be alike divided, as aforesaid : saving to any person aggrieved at any order, sentence or decree made for the settlement and distribution of any intestate estate, their right of appeal unto the Governor and Council ; every person so appealing, giving security to prosecute the appeal with effect.

Be it further Enacted by the Authority aforesaid, That if any executor or executors of the will of any person deceased, knowing of their being so named and appointed, shall not within the space of thirty days next after the decease of the testator, cause such will to be proved, and recorded in the register's office of this province, or present the said will, and declare his or her refusal of the executorship : every executor so neglecting of his or her trust and duty in that behalf, without just excuse made and accepted for such delay, shall forfeit the sum of five pounds per month, from and after the expiration of the said thirty days ; until he or she shall cause probate to be made of such will, or present the same, as aforesaid. Every such forfeiture to be had and recovered by action or information in the inferior court of pleas in this province ; and to be disposed of, one moiety thereof to the use of the poor of the town where the deceased person last dwelt ; and the other moiety to him or them that shall inform and sue for the same. And upon such refusal of the executor or executors, the judge shall commit administration of the estate of the deceased, *cum testamento annexo*, unto the widow, or next of kin to the deceased, and upon their refusal, to one or more of the principal creditors, as he shall think fit.

In case there be no children the estate to be allotted to the wife and next of kin.

Heirs to give bond to indemnify administrators, &c.

Right of appeal saved.

Executors to cause probate of wills to be made in thirty days.

Penalty for neglect.

Upon refusal administration to be committed *cum testamento annexo*.

Executors by wrong.

And if any person or persons shall alienate or embezzle any of the goods or chattles of any person deceased, before he or they have taken out letters of administration, and exhibited a true inventory of all the known estate of the party deceased : Every

person or persons so acting, shall stand chargeable, and be liable to the actions of the creditors, and other persons grieved, as being executors in their own wrong. And the judge shall cause a citation to be made out unto the widow, or next of kin; and upon their neglect of appearance, or refusal, may commit administration of any such estate to some one or more of the chief creditors, if accepted by them, or others, as he shall think fit, upon their refusal.

And it is Enacted by the Authority aforesaid, That the right of appeal which is saved to any party grieved at the sentence of the judge of probate in the settlement or distribution of any intestate estate, shall to all intents and purposes, extend and be taken, and construed to extend to any order, decree, or denial that shall at any time be made and given by the judge of probate, referring to the approbation and allowance of any will, grant of administration, or other matter whatever.

And further it is Enacted and Declared, That the judge of probates in this province, when and so often as there shall be occasion, be and hereby is empowered to allow of guardians that shall be chosen by minors of fourteen years of age; and to appoint guardians for such as shall be within that age, taking sufficient security of all such guardians, for the faithful discharge of their trust, according to law; and to accompt either to the judge or minor, when such minor shall arrive at full age, or at such other time as the judge upon complaint to him made, shall see cause.

Appeal.

Judge of probates to appoint guardians.

AN ACT FOR THE EQUAL DISTRIBUTION OF INSOLVENT ESTATES. Pass'd the 4th of G. 1.

Be it Enacted by the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That when the estate of any person deceased, shall be insolvent or insufficient to pay all just debts which the deceased owed, the same shall be set forth and distributed to and among all the creditors in proportion to the sums to them respectively owing, so far as the said estate shall extend: saving that the debts due to the crown, the sickness and necessary funeral charges of the deceased, are to be first paid. And the executor or administrator appointed to any such insolvent estate, before payment to any be made, except as aforesaid, shall represent the condition and circumstances thereof unto the judge for probate of wills, and granting of administrations; and the said judge shall nominate and appoint two or more fit and indifferent persons to make a true and equal apprizement of such estate, and administer an oath to them for that purpose: and shall also nominate and appoint two or more fit persons to be commissioners, with full power to receive and examine all claims of the several creditors, and how they are made out; and such commissioners shall cause the times and places of their meetings to attend the creditors, for the receiving and exam-

Manner of distribution.

Apprizers to be sworn.

Commissioners to receive claims.

ining their claims, to be made known and published by posting up the same in some public places, in the shire town of this province, and the two next adjoining towns to the place where the Deceased person last dwelt. And six, twelve, or eighteen months time, (as the circumstances of any estate may require) shall be allowed by the judge unto the creditors for bringing in their claims, and proving their debts; at the end of which limited time, such commissioners shall make their report, and present a list of all the claims unto the said judge, who shall order them meet recompence out of the estate for their care and labour in that affair. And the debts due to the crown, sickness, and necessary funeral charges, as is herein before provided, being first subducted; shall order the residue and remainder of the estate to be paid and distributed to and among the other creditors, that shall have made out their claims, in due proportion to the sums unto them respectively owing, according as the estate will bear: Saving unto the widow, if any be, her right of dower according to law, in the houses and lands of the deceased: the widow's dower at the expiration of her term, to be also distributed among the creditors in a like proportion.

Saving dower.

Debts may be contested at common law.

Provided, That notwithstanding the report of any such commissioners, or allowance thereof made, it shall and may be lawful to and for the executor, or administrator, to contest the proof of any debt at the common law.

Process suspended, whilst the commission is depending.

And no process in law, except for debts due to the crown, sickness and funeral charges, shall be allowed against the executor or administrator of any insolvent estate, so long as the same shall be depending, as aforesaid.

Creditors excluded that do not bring in their claims.

And whatsoever creditor shall not make out his or her claims, with such commissioners before the full expiration of the limited time, such person shall be for ever after debarred of his or her debt; unless he or she can find some further estate of the deceased's, not before discovered, and put into the inventory.

Persons suspected of Embezzlement to be sworn.

And be it further Enacted by the Authority aforesaid, That every judge for probate of wills, and granting administration, within this province, be, and hereby is, fully authorized and empowered to call before him, and to require and administer an oath unto any person or persons probably suspected by any executor or administrator to have concealed, embezzled, or conveyed away any of the money, goods, or chattels, left by the testator or intestate, for the discovery of the same: And in case any such suspected person was betrusted by the person deceased, attended upon, or was otherwise conversant with, or near unto him in the time of sickness, or left in possession of the estate, whereby to strengthen and make the suspicion more violent, and shall refuse to clear and acquit him or her self upon oath, it shall and may be lawful for, and the judge is hereby empowered to commit such person, so refusing to swear, unto the goal of this province, there to remain until he or she shall comply to discharge him or her self upon oath, as aforesaid, or be released by consent of the executor or administrator.

Penalty for refusing.

Appeal.

Saving unto any person aggrieved at any sentence, order or decree made by the judge of probate, liberty of an appeal unto

the Governor and Council ; such appellant giving bond in a reasonable sum, with sufficient security to prosecute his appeal with effect, and to abide and perform the determination that shall be made thereupon.

AN ACT RELATING TO EXECUTORS AND ADMINISTRATORS.

Pass'd 13th of
Ann.

For better preventing of executors or administrators doing of wrong, or falsifying the trust in them reposed ;

Be it Declared and Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That henceforth every executor named in any will, taking upon him that charge, by proving such will within the space of three months next after probate thereof, (or at such further or longer time as the judge of probate shall see meet to allow, the circumstances of any estate requiring the same) shall exhibit into the register's office, upon oath, a full and true inventory of the whole estate of the deceased, so far as is then come to his hands and knowledge, and shall add thereto what and so much as may further afterwards appear, or otherwise shall give bond, with one or more sufficient sureties, to pay the debts and legacies of the testator ; on pain of forfeiting five pounds per month, for every month's neglect thereof afterwards.

Executors and
administrators to
exhibit an inven-
tory within three
months, &c.

Provided nevertheless, That in wills where after the payment of debts, and of any certain particular legacy or legacies, the residue or remainder of the estate is bequeathed generally to any one or more persons, other than the executors themselves ; in every such case an inventory of the estate shall be presented upon oath as aforesaid, and no bond be accepted in lieu thereof ; and the executor shall be liable to accompt as administrators are by law obliged to do.

Proviso where
no bond shall be
accepted.

And any executor being a residuary legatary, may bring his action of accompt against his co-executor or executors of the estate of the testator in their hands ; and may also sue for, and recover his equal and rateable part thereof ; and any other residuary legatary shall have like remedy against the executors.

Executors to ac-
count.

And be it Enacted by the Authority aforesaid, That all writs of attachment and execution, shall run only against the goods or estate of the party deceased, in the hands of the executor or administrator, and not against their bodies ; nor shall any executor or administrator be held to special bail upon mean process, nor his own proper goods or estate be seized, or his person be arrested or taken in execution for the debts or legacies of the testator or intestate ; but upon suggestion of a waste, and return made by the sheriff *nulla bona* or *devastavit*, in which case a *scire facias* shall be issued out of the clerk's office of the same court, against such executor or administrator ; and *scire feci* being returned, if the

No executor or
administrator
liable in his per-
son or goods for
debts of the de-
ceased.

How the executor or administrator become liable &c.

executor or administrator shall make default of appearance, or coming in shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him of his own proper goods and estate, to the value of such waste, where it can be ascertained, and otherwise for the whole sum recovered, and for want of goods or estate against his body.

Executors or administrators to make payment of debts, &c. in specie, &c.

And be it further Enacted and Declared, That every executor and administrator, shall make payment of the debts and legacies of the testator or intestate in specie, if such he hath, as assets in his hands; and if he hath not the same in kind, he shall expose the estate to the creditor or legatary, to take his satisfaction thereof at his election and due equal rate and value, by apprizers then to be indifferently named and sworn. And where judgment and execution shall be awarded for any debt or legacy to be paid in money, and the executor or administrator hath not money of the testator's or intestate's, as assets in his hands, the sheriff shall levy the goods or estate of the deceased, and expose the same to a publick and open sale for money, at the best rate and value that he can, and thereout pay such legacy or debt, and his own fees, with the necessary reasonable charges arising on the sale, and return the overplus (if any be) to the executor or administrator; or else shall pay and satisfy the creditor or legatary out of the goods or estate levied, if he see cause to accept the same at the value in money, upon a due and equal apprizement made by sufficient persons upon their oaths, to be indifferently named and appointed for that purpose.

Pass'd the 3th of Ann.

AN ACT PROVIDING FOR POSTHUMOUS CHILDREN.

Forasmuch as it often happens that children are not born till after the death of their fathers, and also have no provision made for them in their wills;

Be it therefore Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Posthumous children to have a proportion, &c.

That as often as any child shall happen to be born after the death of the father, without having any provision made in his will, every such posthumous child shall have right and interest in the estate of his or her father, in like manner, as if he had died intestate; and the same shall accordingly be assign'd and set out, as the law directs, for the distribution of the estate of intestates.

And whereas through the anguish of the decess'd testator, or through his solicitous intention though in health, or through the oversight of the scribe, some of the testator's children are sometimes omitted and not mention'd in the will: many children also being born after the making of the will, though in the life time of their parents:

Be it therefore Enacted by the Authority aforesaid, That any child or children not having a legacy given them in the will of their father or mother, every such child shall have a proportion of the estate of their parents, given and set out unto them, as the law directs, for the distribution of the estates of intestates.

And such as have no legacy given them.

Provided such child or children have not had an equal proportion of his estate bestow'd on them by the father in his life time.

And whereas it sometimes happens that a man having formerly made his will, doth afterwards marry a wife, and then dies ; and the will comes to be proved to the injury of such wife : In all such cases the widow shall have such proportion of her late husband's estate assign'd her, as if he had died intestate, as the law directs, for the distribution of the estate of intestates : Any law, usage or custom to the contrary notwithstanding.

Widows not to be prejudiced by wills made before marriage.

And whereas some doubt hath arisen touching such estate real and personal, as is not plainly devised, given or bequeathed in any last will and testament :

Be it Resolved and Enacted, That from and after the twenty-fifth day of March, one thousand seven hundred and sixty, All such estate, whether real or personal, that is not plainly given away or disposed of in and by the last will and testament of any person thereafter to be proved, the same accordingly shall be distributed in the same manner as if it were an intestate estate, and the executor or executors shall administer on the same as such.

This paragraph inserted in the new edition 1760.

Estate not devised how disposed of.

Provided that nothing in the law shall extend to any estate dispos'd of by will already settled.

AN ACT FOR PREVENTING OF FRAUDS AND PERJURIES.

For the prevention of many fraudulent practices which are commonly endeavored to be upheld by perjury, and subornation of perjury :

Preamble.

Be it Enacted and Ordained by His Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That from and after the last day of June, in this present year, seventeen hundred and nineteen, All leases, estates, interests, of freehold, or term of years, or any uncertain interest of, in, or out of, any messuages, lands, tenements, or hereditaments, made or created by livery and seizin only, or by parole, and not put in writing, and signed by the parties, so making or creating of the same, or their agents thereto lawfully authorized by writing, shall have the force and effect of leases, or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect ; any consideration for making any such parole, leases or estates, or any former law, or usage to the contrary notwithstanding.

Parole leases shall have the force of estates at will only.

Except leases
not exceeding
three years.

Except nevertheless, All leases not exceeding the term of three years from the making thereof; whereupon the rent reserved to the Landlord, during such term shall amount unto two third parts at the least, of the full improved value of the thing demised.

No leases to be
granted or sur-
rendered by
word.

And moreover, That no leases, estates, or interests, either of freehold, or term of years, or any uncertain interest of, into, or out of, any messuages, lands, tenements, or hereditaments, shall at any time after the said last day of June be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

Promises and
agreements by
parole.

And be it further Enacted by the Authority aforesaid, That from and after the said last day of June, no action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate. (2.) Or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriages of another person. (3.) Or to charge any person upon an agreement made upon consideration of marriage. (4.) Or upon any contract or sale of lands, tenements or hereditaments, or any interest in, or concerning them. (5.) Or upon any agreement that is not to be performed within the space of one year from the making thereof. (6.) Unless the agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

Devises of lands
to be in writing,
and attested by 3
or 4 witnesses.

And be it further Enacted by the Authority aforesaid, That from and after the last day of June, all devises and bequests of any lands, or tenements, shall be in writing, and signed by the party so devising the same, or by some other person in his presence, and by his express direction; and shall be attested and subscribed in the presence of the said devisor, by three or four credible witnesses, or else shall be utterly void, and of none effect.

How they shall
be revoked.

And moreover, No devise in writing of lands, tenements, or hereditaments, or any clause thereof, shall at any time after the said last day of June, be revokable, otherwise than by some other will or codicil, in writing, or other writing declaring the same, or by burning, cancelling, tearing, or obliterating the same by the testator himself, or in his presence, and by his direction and consent.

(2.) But all devises and bequests of lands and tenements, shall remain and continue in full force until the same be burnt, cancelled, torn or obliterated by the testator, or by his direction in manner aforesaid; or unless the same be altered by some other will or codicil in writing; or other writing of the devisor, signed in the presence of three or four witnesses, declaring the same: Any former law or usage to the contrary notwithstanding.

All declarations
or creations of
trust to be in
writing.

And be it further Enacted by the Authority aforesaid, That from and after the said last day of June, all declarations or creations of trusts, or confidences of any lands, tenements, or hereditaments, shall be manifested and proved by some writing, signed

by the party who is by law enabled to declare such trust, or by his last will in writing ; or else they shall be utterly void, and of none effect.

Provided always, That where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result, by the implication or construction of law to be transferred or extinguished by an act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect, as the same would have been if this act had not been made ; any thing herein before contained to the contrary notwithstanding.

Trusts arising transferred or extinguished by implication of law excepted.

And be it further Enacted, That all grants and assignments of any trust or confidence, shall likewise be in writing, signed by the party granting or assigning the same, by such last will or devise ; or else shall be utterly void and of none effect.

Assignment of trust shall be in writing.

And be it further Enacted by the Authority aforesaid, That from and after the said last day of June, no contract for the sale of any goods, wares, and merchandise for the price of ten pounds, or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest, to bind the bargain, or in part of payment ; or that some note or memorandum in writing of the said bargain, be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

Contract for sale of goods of ten pounds, or more.

And for prevention of fraudulent practices in setting up nuncupative wills, which have been the occasion of much perjury :

Be it Enacted by the Authority aforesaid, That from and after the said last day of June, no nuncupative will shall be good where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by the oaths of three witnesses at the least, that were present at the making thereof ; nor unless it be proved, that the testator at the time of pronouncing the same, did bid the persons present, or some of them bear witness, that such was his will, or to that effect : Nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or their habitation, or dwelling, or where he or she hath been resident for the space of ten days, or more, next before the making of such will ; except where such person was surprised or taken sick, being from his own home, and died before he returned to the place of his or her dwelling.

Nuncupative wills.

Not to be good for the value of more than thirty pounds, which is not proved by the oaths of 3 witnesses.

And be it further Enacted, That after six months passed after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony or the substance, thereof, were committed to writing within six days after the making the said will.

No testimony to be received to prove such will after six months, except, &c.

And be it further Enacted, That no letters testamentary, or probate of any nuncupative will shall pass the seal of any court, till fourteen days at the least, after the decease of the testator be fully expired ; nor shall any nuncupative will be at any time received to be proved, unless process have first issued to call in the widow, or next of kindred to the deceased, to the end they may contest the same, if they please.

Probate of nuncupative wills.

No written will
to be repealed,
but by writing.

And be it further Enacted, That no will in writing concerning any goods or chattels, or personal estate, shall be repealed; nor shall any clause, devise, or bequest therein be altered or changed by any words, or will by word of mouth only, except the same be in the life of the testator, committed to writing, and read to the testator, and allowed by him, and proved to be so done, by three witnesses at the least.

Soldiers and
mariners wills
excepted.

Provided always, That notwithstanding this act, any soldier being in actual military service; or any mariner or seamen, being at sea, may dispose of his moveables, wages, and personal estate, as he or they might have done, before the making of this act.

AN ACT OF PARLIAMENT MADE ANNO VICESIMO QUINTO GEORGH
II. REGIS.

An Act for avoiding and putting an End to certain Doubts and Questions, relating to the Attestation of Wills and Codicils, concerning Real Estates, in that Part of Great Britain called England, and in His Majesty's Colonies and Plantations in America.

Preamble recit-
ing clause in an
act of 29 Char.
II.

Whereas by an act made in the twenty-ninth year of the reign of his late Majesty King Charles the second, intituled, An act for prevention of frauds and perjuries; it is, amongst other things, enacted, That from and after the twenty-fourth day of June, in the year of our Lord one thousand six hundred and seventy-seven, all devises and bequests of any lands or tenements deviseable, either by force of the statute of wills, or by that statute, or by force of the custom of Kent, or the custom of any borough, or any other particular custom, shall be in writing, and signed by the party so devising the same, or by some other person in his presence, and by his express direction; and shall be attested and subscribed in the presence of the said devisor, by three or four credible witnesses, or else they shall be utterly void and of none effect, which hath been found to be a wife and good provision: But whereas doubts have arisen who are to be deemed legal witnesses, within the intent of the said act; therefore, for avoiding the same,

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same:

Devisee, &c. at-
testing, the de-
vise void, but he
admitted to
prove the will.

That if any person shall attest the execution of any will or codicil, which shall be made after the twenty-fourth day of June, in the year of our Lord one thousand seven hundred and fifty-two, to whom any beneficial devise, legacy, estate, interest, gift, or appointment of, or affecting any real or personal estate, other than and except charges on lands, tenements, or hereditaments, for payment of any debt or debts, shall be thereby given or made,

such devise, legacy, estate, interest, gift, or appointment, shall, so far only as concerns such person attesting the execution of such will or codicil, or any person claiming under him, be utterly null and void; and such person shall be admitted as a witness to the execution of such will or codicil, within the intent of the said act; notwithstanding such devise, legacy, estate, interest, gift, or appointment, mentioned in such will or codicil.

And be it further Enacted by the Authority aforesaid, That in case, by any will or codicil already made, or hereafter to be made, any lands, tenements, or hereditaments, are, or shall be charged with any debt or debts; and any creditor, whose debt is so charged, hath attested, or shall attest the execution of such will or codicil, every such creditor, notwithstanding such charge, shall be admitted as a witness to the execution of such will or codicil, within the intent of the said act.

Creditor attesting, admitted a witness to the will.

And be it further Enacted by the Authority aforesaid, That if any person hath attested the execution of any will or codicil already made, or shall attest the execution of any will or codicil which shall be made on or before the said twenty-fourth day of June, in the year of our Lord one thousand seven hundred and fifty-two, to whom any legacy or bequest is or shall be thereby given, whether charged upon lands, tenements or hereditaments, or not; and such person, before he shall give his testimony concerning the execution of any such will or codicil, shall have been paid, or have accepted or released, or shall have refused to accept such legacy or bequest, upon tender made thereof; such person shall be admitted as a witness to the execution of such will or codicil, within the intent of the said act, notwithstanding such legacy or bequest.

Legatee who has been paid, or shall refuse his legacy, admitted a witness to the will.

Provided always, and be it further Enacted, That in case of such tender and refusal, as aforesaid, such person shall in no wise be intitled to such legacy or bequest, but shall be for ever afterwards barred therefrom; and in case of such acceptance, as aforesaid, such person shall retain to his own use the legacy or bequest which shall have been so paid, satisfied, or accepted, notwithstanding such will or codicil shall afterwards be adjudged or determined to be void, for want of due execution, or for any other cause or defect whatsoever.

After tender and refusal, he is barred from the legacy; but after acceptance, he may retain the same, tho' the will be adjudged void.

And be it further Enacted, That in case any such legatee, as aforesaid, who hath attested the execution of any will or codicil already made, or shall attest the execution of any will or codicil, which shall be made on or before the said twenty-fourth day of June, in the year of our Lord one thousand seven hundred and fifty-two, shall have died in the life-time of the testator, or before he shall have received or released the legacy or bequest so given to him, as aforesaid, and before he shall have refused to receive such legacy or bequest, on tender made thereof, such legatee shall be deemed a legal witness to the execution of such will or codicil, within the intent of the said act, notwithstanding such legacy or bequest.

Legatee attesting, and dying in the life time of the testator, or before he has received or refused his legacy, admitted a witness to the will.

Provided always, That the credit of every such witness, so attesting the execution of any will or codicil, in any of the cases in

Credit of the witness to be considered & determined by the court.

this act before-mentioned, and all circumstances relating thereto, shall be subject to the consideration and determination of the court, and the jury, before whom any such witness shall be examined, or his testimony or attestation made use of; or of the court of equity, in which the testimony or attestation of any such witness shall be made use of; in like manner, to all intents and purposes, as the credit of witnesses in all other cases ought to be considered of, and determined.

No devisee where the devise is made void; nor legatee, who has refused to accept of the legacy: being examined to the execution of the will, shall afterwards demand or take any benefit, or compensation for the same.

And be it further Enacted by the Authority aforesaid, That no person, to whom any beneficial estate, interest, gift, or appointment, shall be given or made, which is hereby enacted to be null and void, as aforesaid, or who shall have refused to receive any such legacy or bequest, on tender made, as aforesaid, and who shall have been examined as a witness concerning the execution of such will or codicil, shall, after he shall have been so examined, demand or take possession of, or receive, any profits or benefit of or from, any such estate, interest, gift, or appointment, so given or made to him, in or by any such will or codicil; or demand, receive, or accept, from any person or persons whatsoever, any such legacy or bequest, or any satisfaction or compensation for the same, in any manner, or under any colour or pretence whatsoever.

Cases particularized, where the validity of wills and competency of witnesses, are not affected by this act.

Provided always, and be it Enacted by the authority aforesaid, That this act, or any thing herein contained, shall not extend, or be construed to extend, to the case of any heir at law, or of any devisee in a prior will or codicil of the same testator, executed and attested according to the said recited act, or any person claiming under them respectively, who has been in quiet possession for the space of two years next preceding the sixth day of May, in the year of our Lord one thousand seven hundred and fifty-one, as to such lands, tenements, and hereditaments, whereof he has been in quiet possession as aforesaid; and also that this act, or any thing herein contained, shall not extend, or be construed to extend, to any will or codicil, the validity or due execution whereof hath been contested in any suit in law or equity commenced by the heir of such deviser, or the devisee in any such prior will or codicil, for recovering the lands, tenements, or hereditaments, mentioned to be devised in any will or codicil so contested, or any part thereof, or for obtaining any other judgment or decree relative thereto, on or before the said sixth day of May, in the year of our Lord one thousand seven hundred and fifty-one, and which has been already determined in favour of such heir at law, or devisee in such prior will or codicil, or any person claiming under them respectively, or which is still depending, and has been prosecuted with due diligence; but the validity of every such will or codicil, and the competency of the witnesses thereto, shall be adjudged and determined in the same manner, to all intents and purposes, as if this act had never been made; any thing herein before contained to the contrary thereof in any wise notwithstanding.

Possessions which are not comprehended

Provided always nevertheless, and it is hereby declared, That no possession of any heir at law, or devisee in such prior will or

codicil as aforesaid, or of any person claiming under them respectively, which is consistent with, or may be warranted by or under, any will or codicil attested according to the true intent and meaning of this act, or where the estate descended or might have descended, to such heir at law, till a future or executory devise, by virtue of any will or codicil attested according to this act, should or might take effect, shall be deemed to be a possession within the intent and meaning of the clause herein last before contained.

within the meaning of the preceding clause.

And whereas in some of the British colonies or plantations in America, the said act of the twenty-ninth year of the reign of King Charles the second, has been received for law, or acts of assembly have been made, whereby the attestation and subscription of witnesses to devises of lands, tenements and hereditaments, have been required: Therefore, to prevent and avoid doubts which may arise in the said colonies or plantations, in relation to the attestation of such devises of lands, tenements, and hereditaments; *Be it Enacted by the authority aforesaid*, That this act, and every clause, matter, and thing therein contained, shall extend to such of the said colonies and plantations, where the said act of the twenty-ninth year of the reign of King Charles the second, is by act of assembly made, or by usage received as law, or where by act of assembly or usage, the attestation and subscription of a witness or witnesses are made necessary to devises or lands, tenements, or hereditaments; and shall have the same force and effect in the construction of, or for the avoiding of doubts upon, the said acts of assembly, and laws of the said colonies and plantations, as the same ought to have in the construction of, or for the avoiding of doubts upon, the said act of the twenty-ninth year of the reign of King Charles the second in England.

This act to extend to such of the British colonies in America, where the act of 29 Car. II. is received as a law, &c.

Provided always, That as to cases arising in any of the said colonies or plantations in America, no such devise, legacy or bequest as aforesaid, shall be made null and void, by virtue of this act, unless the will or codicil whereby such devise, legacy, or bequest shall be given, shall be made after the first day of March, which shall be in the year of our Lord one thousand seven hundred and fifty-three.

Devises, &c. by wills made 1 March, 1753, to be only void.

AN ACT FOR REGULATING TOWNSHIPS, CHOICE OF TOWN OFFICERS, AND SETTING FORTH THEIR POWER.

Pass'd 5th of G. I.

Be it Enacted by the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That the bounds of all townships within this province, shall be perambulated betwixt town and town, and marks renewed once in three years, by two of the select-men of each town, or any other two men whom the select-men shall appoint; the select-men of the most ancient town to give notice unto the select-men of the next adjacent towns, of the time and place of meeting for such peram-

Bounds of townships to continue as heretofore, & to be run and marks renewed in 3 years.

bulation, six days before-hand ; on pain of forfeiting five pounds, by the select-men of any town that shall neglect their duty, in any of the particulars above-said : Two thirds thereof unto the use of the poor of such town, and the other third unto the select-men of any of the next adjacent towns, that shall inform and sue for the same in the inferior court of common pleas, to be recovered by action or information.

Proprietors of
common land to
run the lines
once in two
years.

And be it further Enacted by the Authority aforesaid, That each proprietor of lands lying unfenced, or in any common field, shall once in two years, on six days warning before given him by the next proprietor, or proprietors adjoining, run the lines, make and keep up the bounds between them, by sufficient mete stones ; on pain that every party so neglecting or refusing shall forfeit the sum of ten shillings, one half to the party moving, and the other half to the use of the poor of the town : being convicted and convicted of such neglect or refusal, before any justice of the peace within this province, who is hereby impowered to hear and determine the same.

Common lands
how to be im-
proved.

And further it is Enacted by the Authority aforesaid, That the proprietors of the common or undivided land within each town and precinct of this province, where the same have been heretofore stated, (each one's proportion being known) shall be and hereby are impowered to order, improve, or divide in such way and manner, as shall be concluded and agreed upon by the major part of the interested, the voices to be collected, and accounted according to the interests. And the proprietors of all undivided or common lands not stated and proportioned as aforesaid, shall and hereby are impowered to manage, improve, divide or dispose of the same, as hath been, or shall be concluded and agreed on by the major part of such proprietors. That no cottage or dwelling-place in any town, shall be admitted to the privilege of any commonage for woods, timber and herbage, or any other the privileges which lie in common in any town or peculiar, other than such as were erected or privileged by the grant of such town or peculiar.

And whereas it hath been a continued practice and custom in the several towns within this province, annually to choose select-men, or towns-men, for the ordering and managing the prudential affairs of such town, and other town officers, for the executing other matters and things in the laws, appointed by them to be done and performed :

Qualification of
voters in town
meetings.

Be it further Enacted by the Authority aforesaid, That the freeholders and other inhabitants of each town rateable at twenty pounds estate, to one single rate, beside the poll, shall sometime in the month of March annually meet, and convene together upon legal notice given by the constable or constables of such town, or such others as the select-men, or towns-men, shall appoint, to give notice of such meeting, and the time and place for the same, or in such manner as has been usual to give such notice, in each town respectively ; and by the major vote of such assembly then and there shall choose, three, five, seven, or nine persons, able and discreet, of good conversation, inhabiting within such town, to be select-men, or towns-men, and overseers of the poor, where other

Select men &
other officers to
be chosen.

persons shall not be particularly chosen to that office, which any town shall do, as they find it necessary and convenient ; as also to nominate and choose a town-clerk, who shall be sworn truly to enter and record all town votes, orders, grants, and divisions of land, made by such town, and orders made by the select-men. A commissioner for assessment, constables, tything-men, fence-viewers, clerks of the market, sealers of leather, and other ordinary town officers, with a committee to examine the select-men's accompts, and assessors. And the town-clerk, or two of the select-men, shall forthwith make and give out unto the constable or constables of such town a list of the names of those that shall be then chosen, to the office of town-clerk, constables, tything-men, clerks of the market, sealers of leather, and other officers of whom an oath is by law required, which constable or constables within the space of six days at furthest, shall summon each of them respectively to appear before the quarter sessions, if then sitting, or one of the next justices of the peace, to be sworn to the faithful discharge of their respective offices and trust ; on penalty of twenty shillings, to the use of the poor of the town, to be paid by each constable neglecting his duty in that behalf, upon conviction thereof before one justice of the peace ; and upon non-payment to be levied by distress : Provided that no person in commission for any office, civil or military, church officer, or member of the house of representatives, for the time being, nor any other who hath served as constable within the space of sixty years, shall be chosen to the office of constable.

Town clerk to be under oath.

Constables to warn town officers to be sworn.

Persons exempted from serving as constables, &c.

It is further Enacted by the Authority aforesaid, That the freeholders and inhabitants qualified, as in this act is mentioned, in each respective town, in any town-meeting, orderly warned according to the usage of such town, or the major part so assembled ; or the major part of the select-men, having instructions given them in writing by the town for that purpose, be and hereby are empowered from time to time, to make and agree upon such necessary rules, orders, and by-laws, for the directing, managing, and ordering the prudential affairs of such town, as they shall judge most conducing to the peace, welfare, interest, and good order of the town and inhabitants thereof : And to annex penalties for the observance of the same, not exceeding twenty shillings for one offence : Provided that they be not repugnant to the general laws of the province. And such orders and by-laws being presented unto the court of general sessions of the peace, and approved of by them, shall be established and binding to all the inhabitants of the same town, where made ; and the penalty for breach of them by any of the inhabitants, to be levied by warrant of distress, from any justice of the peace, before whom such offender shall be convicted, to the use of the poor of such town.

Towns or select men having instructions, to make orders & by-laws.

By-laws to be approved by the quarter sessions.

Penalty to be levied by warrant from a justice.

And further it is Enacted by the Authority aforesaid, That the select-men or towns-men chosen as aforesaid, in each town respectively, be, and hereby are empowered to assess the inhabitants, and others resident within such town and the precincts thereof, and the lands and estate lying within the bounds of such town, in just and equal proportion as near as may be unto all town charges, each par-

Select men to make assessment for town charges.

To make warrants for levying the same.

Distress to be made on delinquents.

Persons over-rated to be eased.

Constables to give fourteen days notice.

Idle persons or loiterers to be employed: upon refusal to be sent to the house of correction.

ticular person according to his known ability and estate, such sum and sums of money as hath, or shall be ordered, granted and agreed upon, from time to time by the inhabitants in any town-meeting regularly assembled, or the major part of those present at such meeting, for the maintenance and support of the ministry, schools, the poor, and for the defraying the other necessary charges arising within the said town; and thereof to make perfect lists under their hands, or the major part of them, setting down every person's name, and several proportion; and shall there-upon make out a warrant under seal, to be signed by the said select-men, or the town-clerk by their order, who are hereby respectively empowered thereto, directed unto the constable or constables of the said town, for the speedy levying and collecting of such assessments, and to pay in the same unto the select-men, or to such person as they shall appoint or order, within the time thereby prefix: And to make distress upon all such as shall neglect or refuse payment: And for want of goods or chattels, whereon to distrain, to seize the person, and to commit him to the common goal of the province, there to remain until he pay the sum upon him assessed, as aforesaid, unless the same or any part thereof, upon application made to the court aforesaid, shall be abated; and if any person think himself over-rated, and make it so appear to the select-men, he shall be eased; and if they refuse, such person aggrieved may make his application to the said court, who are hereby empowered to rectify the same. And each constable having a rate so committed to him to collect, shall give fourteen days notice to each person of whom he is to make collection of their proportion thereof, before he presume to make distress, unless it be of persons who he hath sufficient grounds to suspect are about removing out of such his town or precinct.

And it is further Enacted by the Authority aforesaid, That the select-men, or overseers of the poor in each town, where there are such chosen, and especially appointed for that service, are hereby empowered and ordered to take effectual care, that children, youth, and other persons of able body, living within the same town, or precinct thereof, not having estate otherwise to maintain themselves, do not live idly, or misspend their time in loitering, but that they be brought up, or employed in some honest calling which may be profitable to themselves, and the publick. And if any person or persons fit and able to work, shall refuse so to do, but loiter, and misspend his or her time, wander from place to place, or otherwise disorder themselves, and be thereof convicted before one or more of his Majesty's justices of the peace; such person or persons shall by such justice or justices of the peace be sent to the house of correction, and at their entrance be whipped on the naked back, by the master of such house, or such others as he shall procure, not exceeding ten lashes, and be there kept to hard labour until he or she shall be discharged by said justice or justices, or the court of general sessions aforesaid. And it shall and may be lawful for the overseers of the poor, or select-men in each town, where there are no other men specially chosen, and appointed to be overseers of the poor, and they are hereby ordered with the

assent of two justices of the peace to bind any poor child belonging to such town, to be an apprentice, where they shall see convenient : A man child until he shall come to the age of twenty-one years ; and a woman child until she shall come to the age of eighteen years ; which shall be as effectual to all intents and purposes, as if any such child were of full age, and by indenture of covenant had bound him, or her self ; provided such child is supported by the town, or application be made for such support.

Poor children to be bound out apprentices.

And it is further Enacted by the Authority aforesaid, That every person and persons, (except as in this act is before excepted) being duly chosen as aforesaid, to serve in the office of constable, who shall refuse to take the oath to that office belonging, and to serve therein, if he be able in person to execute the same, shall pay the sum of five pounds to the use of the poor of such town, and shall forthwith declare his acceptance or refusal, on the like penalty of five pounds, to be by him paid down, or he ordered to prison, by a justice of the peace, and the town shall proceed to a new choice ; and if such person refuse to pay down his fine, in either of the cases aforesaid, he shall be convened before the next sessions of the court aforesaid, who upon certificate under the hand of the town-clerk, or two of the select-men, that such person was legally chosen to the office of constable, and showing no just cause to said court for his excuse, the justices shall order a warrant to be signed by the clerk of the peace, directed to the sheriff, or any of the constables then in being in such town, to levy the said fine by distress, and sale of such offenders goods, returning the overplus, if any be, the said fine to be delivered unto the overseers of the poor, or select-men, to the use of the poor of such town.

Penalty for not serving as constable.

And be it further Enacted by the Authority aforesaid, That if any person or persons come to sojourn, or dwell in any town within this province, or precinct thereof, and be there received, and entertained by the space of three months, not having been warned by the constable, or other person whom the select-men shall appoint for that end to leave the place, and the names of such persons with the time of their abode there, and when such warning was given them, returned unto the said court of general sessions of the peace ; every such person shall be reputed an inhabitant of such town, or precinct of the same, and the proper charge of the support of such person, in case, through sickness, lameness, or otherwise, they come to stand in need of relief, to be born by such town ; unless the relations of such poor impotent persons in the line and degree of father, or grand-father, mother, or grand-mother, children or grand-children be of sufficient ability ; then such relations respectively shall relieve such poor person in such manner as the court of general sessions of the peace shall assess, on pain that every one failing therein, shall forfeit thirty shillings for every week's neglect, to be levied by distress and sale of such offenders goods, by warrant from any two justices of the peace, *unus quorum*, within this province, (with incidental charges ;) the said sum to be applied to the relief of such person : *Provided nevertheless,* This act shall not be understood of any person com-

Persons entertained in any town by the space of three months, & not warned out, to become inhabitants.

Persons of ability to relieve their poor relations.

mitted to prison, or lawfully restrained in any town, or of such as shall come, or be sent for nursing, or education, or to any physician or chyrurgeon, to be healed or cured, but the particular persons who receive and entertain any such shall be the town's security in their behalf, and be obliged to relieve and support them, in case of need, upon complaint made to the court of sessions aforesaid, who shall accordingly order the same, and carry such orders into execution.

Persons warned out of any town to depart in 14 days, or else to be sent by the constable.

And be it further Enacted by the Authority aforesaid, That any person, orderly warned, as aforesaid, to depart any town whereof he is not an inhabitant, and neglecting so to do by the space of fourteen days next after such warning given, may by warrant from the next justice of the peace be sent and conveyed from constable to constable, unto the town where he properly belongs, or had his last residence at his own charge, if able to pay the same, or otherwise at the charge of the town so sending him.

Constables to warn town meetings.

And further it is Enacted by the Authority aforesaid, That when and so often as there shall be occasion of a town-meeting for any business of publick concernment to the town there to be done, the constable or constables of such town by order from the select-men or major part of them, or of the town clerk by their order, in each respective town within this province, shall warn a meeting of such town, having order for the same in writing, on pain that every constable neglecting his duty in that respect, and being thereof convicted before one justice of the peace, shall forfeit the sum of ten pounds to the use of the poor of such town, to be levied by distress, and sale of the offenders goods, by warrant from a justice of the peace, upon neglect or refusal of payment. Or such meeting may be warned according to the former usage of such town. And in case the select-men in any town shall unreasonably deny to call a town-meeting upon any public occasion thereof, the same being complained of and made to appear by any thirty of the inhabitants, and freeholders of such town, unto two justices of the peace, *unus quorum*, such justices by their warrant directed to the constable or constables, may order a meeting of the inhabitants of such town, therein signifying the occasion thereof, or may notify the same according to the usage or custom aforesaid.

Penalty for neglect.

Justice to give warrant for town meeting, in case.

Town officers to be sworn.

And it is hereby Enacted by the Authority aforesaid, That select-men and assessors, and lot-layers, as well as all other town officers to be legally chosen, as above is directed, shall have an oath administered unto them by one of his Majesty's justices of the peace within this province, for the faithful discharge of the office which they are employed in ; and every justice of the peace is hereby authorized to administer the same.

AN ACT RELATING TO CONSTABLES COLLECTING RATES OR ASSESSMENTS. Pass'd 5th of Geo. 1.

Be it Enacted by His Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That the constables within the several towns of this province, who have had, or hereafter shall have any rates or assessments for the defraying the public charges, orderly made and committed unto them to collect, the accompts and payments whereof are not issued, or that at any time or times hereafter, shall not pay in and issue their accompts thereof with the select-men, or other person appointed by the town for that end, by the time prefixt in the warrants to them respectively given, for the collecting and paying in thereof, or within the space of one month next after the expiration of such time: Every such defective constable shall be liable to have such sum or sums of money then due from him distrained, by warrant under the hand and seal of the treasurer of this province, directed to the sheriff, or his deputy, if such money be for the use of the province; but in case such money be for the use of any town or parish, having the common powers and privileges of towns, then it shall be distrained by warrant under the hands and seals of the select-men of such town or parish for the time being, or the major part of them; but if such money be for the use of any particular parish not having the powers and privileges of towns, such warrant shall be issued under the hands and seals of the parish assessors or church wardens with a justice of the peace: which distress shall be made on such constables estate, real or personal, returning the overplus, if any be; and for want of such estate, to take the body of such defective constable and to imprison him, until he pay the same: Which warrant the sheriff or his deputy is hereby authorized and required to serve accordingly.

Constables to collect rates.

Defective constables liable to an execution.

To be directed to the sheriff, &c.

And be it further Enacted by the Authority aforesaid, That at any time when any constable in any of the respective towns in this province, shall take goods by distress for payment of his rates, he shall keep such goods so distrained by the space of four days at the cost and charges of the owner thereof; and if the said owner do not pay the sum and sums of money so assessed upon him within the said four days, then the said distress to be openly sold at an outcry by the said constable, for payment of the said money, notice of such sale being posted up in some public place in the same town twenty-four hours before-hand, and the overplus coming by the said sale, if any be, over and above the charges of taking and keeping the said distress to be immediately restored to the owner.

Goods distrained to be kept 4 days.

Public notice of sale to be given 24 hours.

And be it further Enacted by the Authority aforesaid, That where any person or persons shall remove from any town or place where he or they lived, or had his or their residence, at the time of making the list of rates or taxes, not having before paid the respective sum or sums set upon him, or them, in such lists; It

Constables power out of his own precinct to collect rates.

shall be lawful to and for the constable to whom any such tax, or rate, shall be committed, with warrant to collect, and he is hereby authorized and impowered to demand the sum or sums of money assessed upon such person or persons, in what town or place soever he or they may be found in this province ; and upon refusal or neglect to pay the same, to distrein the said person or persons, by his or their goods or chattels, as aforesaid ; and for want of such distress to commit the party to the Common Goal, there to remain until payment be made.

In case where lands lye in one town and owner in another.

Justices power.

And be it Enacted by the Authority aforesaid, That where the owner or tenant of any lands liable to public taxes, shall not reside or be an inhabitant of the town or precinct in which such lands lye, and no stock, corn, or hay can be found upon the said lands, whereof the said constable may make distress to satisfy such sum or sums, as from time to time such lands shall be assessed at, either to the province, town or parish charge ; in such case any justice of the peace in this province, upon application to him made by the constable to whom the list wherein such lands shall be assessed, shall be committed, upon sight of the same, or authentick copy thereof, may and hereby is impowered, and required to grant a warrant unto the constable of the town, parish or precinct where such owner or occupant dwells, or resides, to distrain such owner or occupant by his goods or chattels, the full sums at which such lands are set in such list or assessment, with the charge of making such distress, and to satisfy the same by sale thereof, returning the overplus, if any be, to the owner, or occupant ; and in case no goods or chattels of the party can be found, whereon to distrain, then to commit him to the common goal, there to remain without bail or mainprize, until he pay and satisfy the sum or sums so assessed, with the charges.

Constables power, where new ones are chosen.

And when and so often as it happens, that constables be a-new chosen and sworn for any town before the former constables have perfected their collection, of any tax or assessment to them committed to gather, such former constables are notwithstanding hereby fully impowered and required to perfect all such collections, and may exercise the same powers and authorities for the gathering and enforcing the payment thereof, as by this act they might have done, before other constables were chosen and sworn.

Delinquent constables estate liable.

The method of proceeding in such case.

And be it further Enacted by the Authority aforesaid, That where the sheriff or his deputy, shall by legal warrant to him directed, distrain and levy the lands or tenements of any constable, for his default in not collecting, or not paying into the treasurer or select-men, or their order respectively, any sum or sums of money, which ought to be by them collected, levied, and paid in, as aforesaid ; in every such case, the sheriff or his deputy executing such warrant or warrants of distress, shall cause due notice of the time and place of the intended sale thereof to be given one and twenty days before such sale, in the town or parish where such estate is situated, and in two of the next adjoining towns ; and shall cause notice to be published in a public newspaper in this province three weeks successively ; and if the owner of such estate shall at any time before the actual sale thereof, pay

to the said officer the sums for which the distress was made, with all legal charges accrued to the time of such payment, the said officer shall receive the same, and proceed no farther therein : But in case no such payment shall be made, the officer shall proceed to the sale of such estate by auction ; and is hereby fully empowered to make, seal and execute good and sufficient deed or deeds of conveyance of such estate ; and out of the produce thereof, to pay and satisfy such sum or sums of money, for which the estate shall be levied, with all charges arising thereon, and to return the overplus upon such sale, if any be, unto the owner : And all deeds and conveyances of any such estate in houses or lands duly executed, as aforesaid, shall be good and effectual in the law unto the purchaser and his heirs and assigns forever, to all intents and purposes, against such delinquent constable, and any person claiming the same under him.

Provided notwithstanding, That in no case whatsoever any distress shall be made, or taken, from any person or persons of his or their beasts, belonging to the plough, nor of tools or implements necessary for his or their trade and occupation, nor of his or their military arms, or utensils of household necessary for upholding of life, nor of bedding, or apparel, necessary for him or themselves or family : Any law, usage or custom to the contrary notwithstanding.

Goods exempted
from distress.

AN ACT AGAINST HIGH TREASON.

Pass'd 13th of
Anne.

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That if any person or persons shall compass or imagine the death of our sovereign lady the Queen, or of any heir apparent to the crown ; or if any person shall levy war against our sovereign lady the Queen, or be adherent to the Queen's enemies, giving them aid or comfort in the realm, or elsewhere, and thereof be properly attainted of open deed by his peers, upon the testimony of two lawful and credible witnesses upon oath, brought before the offender face to face, at the time of his arraignment, or voluntary confession of the party arraigned ; or if any person or persons shall counterfeit the Queen's great seal or privy seal, or the seal of this province, and thereof be duly convicted, as aforesaid, then every such person or persons so as aforesaid offending, shall be deemed, declared and adjudged to be traitors, and shall suffer pains of death, and also lose and forfeit as in cases of high treason.

Compassing the
death of the
Queen.
Levy war.

Counterfeiting
the Queen's seal.

And be it further Enacted by the Authority aforesaid, That the trial of all and every person and persons whatsoever, accused, indicted and prosecuted for high treason and misprision of such treason, shall be regulated according to the act of parliament made in the seventh year of the reign of King William the third, entituled,

Trial to be
according to the
law of England.

An act for regulating of trials in cases of treason and misprision of treason ; and the party so accused, indicted and prosecuted to be allowed the benefit and privileges in and by the said act granted and declared.

Pass'd 13th of
Anne.

AN ACT APPOINTING THE SHERIFF TO HAVE THE KEEPING OF THE COMMON GOAL, AND THE PRISONERS THEREIN, AND FOR REGULATING SAID GOAL, AND PREVENTING ESCAPES.

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

The sheriff to
keep the goal.

That the sheriff of this province have the custody, rule, keeping and charge of her Majesty's goal in Portsmouth, in the said province, during the time of his office, to be held and kept by himself, or his lawful deputy, or underkeeper, for whom the sheriff shall be answerable : and every sheriff shall give sufficient security unto the Queen's Majesty in the sum of two thousand pounds current money, for the due and faithful discharge and performance of his office in all parts thereof, according to the tenor and form of securities given in Great-Britain, for the office of high sheriff.

The sheriffs
bond two
thousand
pounds.

Prison keepers
to return a list of
their prisoners.

Be it further Enacted by the Authority aforesaid, That every goaler, or keeper of the Queen's prison within this her Majesty's province, at the opening of the court of assize, and general goal delivery, court of oyer, and terminer, and court of general sessions of the peace respectively, to be holden within this province from time to time, shall return a list, and certify unto such court, the names of all prisoners then in his custody, with the cause of their commitment ; and also the names of all other prisoners that shall be committed unto him, during the setting of any such court, whereby the justices of the said courts respectively, may take cognizance thereof, and as well for the Queen as the parties, and may proceed to make deliverance of such prisoners according to law, the crimes proper to the jurisdiction of such court ; upon pain that every goaler or prison-keeper for each default by him made in that respect, shall forfeit such sum as shall be set upon him by the justices of the court, not exceeding ten pounds.

Breach of Prison
or flight to be
accounted one
evidence.

Be it further Enacted by the Authority aforesaid, That whosoever breaketh prison, or shall make his escape from an officer after being arrested, or imprisoned for any crime, his breach of prison, or flight, shall be accounted and esteemed in the law one evidence to convict him of the crime wherewith he stands charged in the warrant for his apprehension or commitment.

Penalty on such
as shall convey
tools to the
prisoner.

And if any person whatsoever, shall directly or indirectly, by any ways or means howsoever, convey any instrument, tool, or other thing whatsoever to any prisoner, or into the prison, whereby such prisoner, or any other prisoner, either may or might break prison, or work him or her self unlawfully out of the same ; every person so offending, and being thereof convicted, shall forfeit and

pay such fine as by the discretion of the court shall be imposed and set upon such offender, according to the nature of the cause of the prisoner's commitment, not exceeding twenty pounds, or suffer corporal punishment by whipping, not exceeding twenty stripes.

And if it happen any prisoner or prisoners to make his or their escape by means of any instrument, tool, or other thing conveyed as aforesaid, the person or persons conveying the same, shall be fined, not exceeding five hundred pounds, or be corporally punished by whipping, not exceeding thirty-nine stripes, and find sureties for the good behaviour, during the space of one year, at the discretion of the court, according to the nature of the crime or crimes wherewith the prisoner or prisoners stood charged in their mittimus, or warrants of commitment, and other circumstances aggravating the offence. And if any prisoner or prisoners so escaping, shall stand convict of any capital crime, the person or persons so assisting, or furthering their escape, as aforesaid, over and above their being fined, or corporally punished, as before is directed, and bound to the good behaviour, shall also be stigmatized, or burned in the forehead, or on the cheek, with a hot iron of the figure letter C.

Farther penalty
in case the
prisoner do
escape.

And be it further Enacted by the Authority aforesaid, That if the prisoner or prisoners so escaping, were imprisoned for debt, the person or persons assisting and furthering their escape, as aforesaid, shall be liable to pay the full debt owing to the creditor or creditors, at whose suit such prisoner or prisoners stood committed, to be recovered by action or actions upon the case therefor to be brought against the person or persons so offending, as aforesaid, who shall also be fined, or corporally punished, as aforesaid, at the discretion of the court, not exceeding the fine or punishment before mentioned.

Prisoners escape
for debt.

And be it further Enacted, That every goaler or prison-keeper that shall voluntarily suffer any prisoner or prisoners committed to his custody to escape, upon due conviction thereof, shall undergo and suffer the like pains and penalties as the prisoner or prisoners so escaping, should by law for the crime or crimes wherewith he or they stood charged by the warrant or warrants of commitment, if the prisoner or prisoners had hereof been convict.

Penalty on
goaler for
voluntary escape.

Provided, That if any person assisting and furthering the escape of any prisoner in manner as aforesaid; or if the keeper of the prison that shall voluntarily suffer to escape, as aforesaid, shall by any ways or means recover any prisoner or prisoners so escaping, and return them back to prison again before prosecution had, and judgment entred up against such person, or prison-keeper for such escape, which shall not be until six months past next after the escape; in such case the person or prison-keeper so offending, shall be liable to no further punishment than to pay such fine as the court that shall have cognizance thereof in their discretion shall think fit to set upon him, according as the offence may be aggravated by the circumstances attending the same, and the degree of the crime wherewith the prisoner stands charged. And in case the escape of any prisoner happen through the negligence of the

Proviso.

No action for an
escape to be
commenced till
six months
afterwards.

goaler, or prison-keeper, he shall pay such fine as the justices of the court in their discretion, before whom the prosecution shall be, shall impose and set upon him, according to the nature or degree of the offence, for which the prisoner escaping, was taken and imprisoned; and if the prisoner so escaping were imprisoned for debt, the prison-keeper shall be answerable to the creditor for the full debt, and he shall have his remedy against the prisoner.

Fines how to be disposed of.

All fines and forfeitures arising by this act, shall be applied to, and for the repairing, maintaining, and upholding of the prison within this province, and to be paid to the treasurer, for the time being, to be employed accordingly, and not otherwise.

And be it further Enacted by the Authority aforesaid, That from and after the first Day of August next, if any prisoner for debt shall escape through the defect or insufficiency of the prison, the creditor shall have his remedy against the sheriff, who shall be answerable for the debt which the prisoner escaping justly owed to the creditor, which sum, with all incidental charges, and the charges that shall be recovered against the sheriff on trial, shall be immediately repaid to him by the province, on his representing the case to the General Assembly.

Pass'd 13th of Anne.

AN ACT TO PREVENT DISORDERS IN THE NIGHT.

Preamble.

Whereas great disorders, insolencies and burglaries, are oft times raised and committed in the night time, by Indian, Negro, and Molatto servants and slaves, to the disquiet and hurt of her Majesty's good subjects:

For Prevention whereof;

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Disorders in the night.
No Negro or Indian to be from home after 9 o'clock at night.

That no Indian, Negro, or Molatto servant or slave, may presume to absent from the families where they respectively belong, or be found abroad in the night time after nine o'clock; unless it be upon errand for their respective masters or owners.

May be taken up and committed in case.

And all justices of the peace, constables, watchmen, and other her Majesty's good subjects, being householders within the same town, are hereby respectively impowered to take up and apprehend, or cause to be apprehended, any Indian, Negro, or Molatto servant or slave, that shall be found abroad after nine o'clock at night, and shall not give a good and satisfactory account of their business, or if they make any disturbance, or otherways misbehave themselves, and forthwith convey them before the next justice of the peace (if it be not over late in the night) or to restrain them in the common goal, watch-house, or constables house, until the morning, and then cause them to appear before a justice of the

peace, who shall order them to the house of correction, to receive the discipline of the house, and then be dismiss'd, unless they be charged with any other offence than absence from the families whereto they respectively belong, without leave from their respective masters or owners. And in such town where there is no house of correction, to be openly whipped by the constable, not exceeding ten stripes.

Punishment.

AN ACT FOR RECORDING DEEDS AND CONVEYANCES.

Pass'd 13th of
Wm. 3.

For preventing fraudulent and uncertain sales of houses and lands, and to the intent it may be the better known what title or interest persons have in or to such estates as they shall offer to sale :

Preamble.

Be it Enacted by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That henceforth all deeds or conveyances of any houses or lands within this province, signed and sealed by the party or parties granting the same, having good and lawful right or authority thereto, and acknowledged by such grantor or granters before a justice of the peace, and recorded at length in the records of this province, where such houses and lands do lye, shall be valid to pass the same without any other act or ceremony in the law whatsoever : and that from and after three months next after publication of this act, no bargain, sale, mortgage, or other conveyances of houses or lands, made and executed within this province, shall be good in law to hold such houses and lands against any other person or persons, but the grantor or granters and their heirs only, unless the deed or deeds thereof be acknowledged and recorded in manner as is before expressed. *Provided*, nevertheless, that when and so often as it shall happen any grantor to live in parts beyond the sea, or to be removed out of this province, or to be dead, before any deed or conveyance by him or her made be acknowledged, as aforesaid ; in every such case, the proof of such deed or conveyance made by the oaths of two of the witnesses thereto subscribed, before any court of record within this province, shall be equivalent to the parties own acknowledgment thereof.

Deeds executed
by signing, seal-
ing, and
acknowledg-
ment to be valid.No deed good
without
acknowledging
and recording
against any but
the grantor.Proof of a deed
in case.

Be it further Enacted by the Authority aforesaid, That if any grantor or vender of any houses or lands, shall refuse to acknowledge, as is abovesaid, any grant, bargain, sale, or mortgage by him or her signed and sealed, being thereunto required by the grantee or vendee, his, her, or their heirs or assigns, it shall be lawful for any justice of the peace within this province, such grantees or vendees living here, upon complaint, to send for the party so refusing ; and if he or she persist in such refusal, to commit him or her to prison, without bail or mainprize, until such party shall acknowledge the same ; it being first made appear and proved to be the act and deed of the same party, by the oath of one or more of

Penalty on
persons that
refuse to
acknowledge
their deeds.

the witnesses thereto subscribed ; and such grantee or vendee, filing a copy of his deed so proved in the records of this province, shall thereby secure his title in the mean time ; and the same shall be accounted sufficient caution to every other person or persons against purchasing the estate in such deed mentioned to be granted.

Saving for
dower.

Provided, Nothing in this act be construed, deemed, or intended to bar any widow of any vender or mortgager of lands or tenements from her dowry or right in or to such lands, or tenements, who did not legally joyn with her Husband in such sale or mortgage, or otherwise lawfully barr or exclude herself from such her dowry or right.

How mortgages
shall be dis-
charged.

Be it further Enacted by the Authority aforesaid, That any mortgagee of any lands or tenements, his or her heirs, executors or administrators, having received full satisfaction and payment of all such sum and sums of money as are really due to him by such mortgage, shall at the request of the mortgager, his heirs, executors or administrators acknowledge, and cause such satisfaction and payment, to be entered in the margin of the record of such mortgage, in the province records, and shall sign the same ; which shall for ever there-after discharge, defeat, and release such mortgage, and perpetually barr all actions to be brought there-upon in any court of record : and if such mortgager, his or her heirs, executors or administrators, shall not within ten days next after request in that behalf made, and tender of his or her or their reasonable charges repair to the records, and there make and sign such acknowledgement, as aforesaid, or otherwise sign and seal a discharge of the said mortgage and release, and quit-claim to the estate therein mentioned to be granted, and acknowledge the same before a justice of the peace, he, she or they so refusing shall be liable to make good all damages for want of such discharge or release ; to be recovered by action, or suit in any court of record ; and in case judgment pass against the party so sued, he, she or they so cast shall pay unto the adverse party treble cost arising upon such suit.

Deeds to be
recorded at
length.

Be it further Enacted by the Authority aforesaid, That the recorder for this province, shall fairly enter and record at length all deeds, conveyances, and mortgages of lands, tenements, rents, or other hereditaments, lying and being within said province made, executed, and acknowledged or proved in manner aforesaid, which shall be brought to him to record ; and shall on receipt thereof into the office, note thereupon the day, month and year, when he received the same ; and the record shall bear the same date. And every such recorder before he execute the said office shall be sworn truly and faithfully to execute the same. And it shall and may be lawful to and for the recorder aforesaid, to ask and receive for entering, and recording any deed, conveyance, or mortgage two shillings ; and if above one side of a whole sheet of paper in said deed, after the rate of twelve pence per page, and six pence for his attestation on the original, of the time, book, and folio, where it is recorded ; and for a discharge of a mortgage, as aforesaid, one shilling, and no more.

Recorder to be
sworn.

The fee.

And be it further Enacted by the Authority aforesaid, That all deeds of bargain, sale, or mortgage heretofore made and executed, according to former laws and usage within this province, shall be valid and effectual.

Deeds executed according to former law and usage, to be valid.

And be it further Enacted by the Authority aforesaid, That whereas the records of this province are of great moment and concern to the inhabitants thereof, that they shall not be committed into the hands of any person whatsoever, as recorder, unless he be a person of known integrity; also that he be a freeholder within the same, and of a valuable estate, to respond any damage that may accrue.

Recorder to be a man of known integrity, and a freeholder.

AN ACT FOR REGULATION OF SEAMEN.

Pass'd 13th of Wm. 3.

Whereas great loss and damage is frequently occasioned to trade and navigation by seamen deserting their employ or voyage they are entered upon, or being taken off from the same by arrest and restraint for debt, or pretence thereof:

Preamble.

For remedy whereof :

Be it Enacted by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That if any victualler, innkeeper, seller of wine, or strong liquors, shop-keeper, or any other person whatsoever, shall trust or give credit to any mariner, or seaman belonging to any ship, or other vessel, without the knowledge and allowance of the master or commander thereof; no process or attachment for any debt so contracted without knowledge and allowance, as aforesaid, shall be granted against or served upon such mariner or seaman, until he shall have performed the voyage he is then entered upon, and be discharged of the same: And every process granted contrary herunto, and serving thereof shall be deemed and adjudged utterly void in law. And any justice of the peace within this province, before whom it shall be made appear, that any mariner or seamen, belonging to any ship or vessel, is committed or restrained upon process granted for any debt or pretention of debt made, whilst such mariner or seaman was engaged, and actually entered, and in pay on any voyage, shall forthwith order his release.

No mariner to be arrested for any debt whilst he belongs to a ship, &c.

And be it further Enacted by the Authority aforesaid, That if the master or commander of any ship, or any other vessel, shall ship any seaman, knowing him to be first entertained and shipped on board another ship or vessel, or after notice thereof given him, shall not forthwith dismiss him; every such master or commander so offending, being thereof convicted, shall forfeit and pay the sum of five pounds, one moiety thereof to the use of the poor of the town where the offence was committed, and the other moiety to him or them that shall inform or sue for the same, by action, bill, plaint, or information, in any court of record; and such seaman so

Penalty on masters of ships, who shall ship seamen entertained first on board another ship, &c.

Penalty on
sailors.

shipping himself, shall forfeit, and pay the value of one month's wages that he shall so agree for, to be recovered, employed, and disposed of in manner aforesaid.

Sailors deserting
to be imprisoned.

And further, Be it Enacted, That if any mariner or seaman, having first shipped himself on board any ship or other vessel to proceed in any voyage, and under pay, (the same being made appear by his hand set to the master's book, or other writing of such agreement) shall neglect his attendance and duty on board, and absent himself from his said service; upon complaint thereof made to any justice of the peace within this province, such justice is hereby impowered to convent such mariner or seamen before him, and upon conviction of his so absenting himself, as aforesaid, to commit him to prison, that so he may be secured, and forthcoming to proceed on the voyage he hath so agreed to, and to be delivered by order of the justice that committed him, or some other justice in this province.

AN ACT FOR THE BETTER OBSERVATION AND KEEPING THE
LORD'S-DAY.

Be it Enacted and Ordained by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and it is Enacted by the Authority of the same :

Labours and
sports, prohib-
ited on penalty
of 5s.

That all and every person and persons whatsoever, shall on that day carefully apply themselves to duties of religion and piety, publicly and privately : And that no tradesman, artificer, or other person whatsoever, shall upon the land or water, do or exercise any labour, business, or work of their ordinary calling ; nor use any game, sport, or recreation on the Lord's-day, or any part thereof, (works of necessity and mercy only excepted :) upon pain that every person so offending shall forfeit five shillings.

Travelling
prohibited on
penalty of 20s.

Further, It is Ordered and Declared, That no traveller, drover, horse-courser, waggoner, butcher, higler, or any of their servants, shall travel on that day, or any part thereof, except by some adversity they were belated, and forced to lodge in the woods, wilderness, or high-ways the night before ; and in such case to travel no further than the next inn, or place of shelter, on that day, upon the penalty of twenty shillings.

Publick houses
to entertain none
but strangers
and lodgers, on
penalty of 5s.

Further, It is Ordered, That no vintner, innholder, or other person, keeping any publick house of entertainment, shall entertain or suffer any of the inhabitants of the respective towns where they dwell, or others not being strangers, or lodgers in such houses, to abide or remain in their houses, yards, orchards, or fields, drinking or idly spending their time on saturday night after the sun is set, or on the Lord's-day, or the evening following ; upon the pain and penalty of five shillings for every person, payable by themselves respectively, that shall be found so drinking, or abiding in any such house, or dependencies thereof, as aforesaid ; and the like sum of five shillings to be paid by the keepers of such houses, for every person entertained by them.

And for the better execution of all and every the foregoing orders: Every justice of the peace within this province, shall have power and authority to convent before him any person or persons, who shall offend in any of the particulars before mentioned; and upon his own view, or other legal conviction of any such offence, to impose the fine and penalty for the same; and to restrain and commit the offender, until it be satisfied; or to cause the same to be levied by distress and sale of the offenders goods, returning the overplus, if any be: And in case any such offender be unable or refuse to satisfy such fine, to cause him to be put in the cage, or set in the stocks, nor exceeding three hours. All fines and penalties accruing by this act, to be to the benefit and relief of the poor of such town where the offence is committed, and delivered into the hands of the select-men or overseers of the poor, for that end.

A justice of peace may determine breach of this act.

Fines to be to the use of the poor.

And all masters and governors of families, are hereby required to take effectual care, that their children, servants and others under their immediate government, do not transgress in any of the foregoing particulars.

The duty of masters, &c.

And all justices of the peace, constables, and select-men, are required to take effectual care, and endeavour that this act in all the particulars thereof be duly observed: As also to restrain all persons from swimming in the water unnecessarily; and unseasonable walking in streets or fields in any part of this province; keeping open their shops, or following their secular occasions, or recreations in the evening preceeding the Lord's-day, or any part of the said day, or evening following.

Justices, constables and select men to see that this law be observed.

And all persons are strictly required to be obedient to, and aiding and assisting such justices, constables, and other officers herein, as they will answer the contrary at their peril.

All persons to aid and assist the constables.

AN ACT AGAINST TRESPASSING ON COMMON LANDS.

Pass'd 13th of Wm. 3.

Complaint being made to the General Assembly, by several persons within this province, that ill disposed persons do presume to fence in some of their principal commons and feeding land belonging to their several towns, or proprietors, without having any grant or leave from the town, or proprietors, for the same, which tends to the great detriment of the inhabitants of the towns or proprietors to whom such lands belong:

Preamble.

Be it therefore Enacted by the Lieutenant Governor, Council, and Representatives, convened in General Assembly and by the Authority of the same:

That whosoever shall presume to fence or build upon any town or proprietary common land, without first obtaining a grant or leave from the town or the proprietors for the same, shall pay a fine of five pounds to his Majesty, his heirs and successors, for and towards the support of this his government; and twenty shillings monthly to the select-men of the town, or committee of the pro-

Persons to be fined who fence in common land without leave.

prietors, where such trespass is committed, for the use of the poor of the town, or use of the proprietors respectively, for so long as the trespasser shall continue his said fence or building on the common land, after conviction.

Pass'd 6th of
Anne.

AN ACT FOR PREVENTING OF TRESPASSES.

Be it Enacted by the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Robbers of
orchards and
gardens how to
be punished.

That all and every person and persons, which shall unlawfully cut, or take away any grass, corn, or grain, growing ; or rob any orchard or garden, or break, or cut, pull down or remove any hedge, pale, rail, or fence ; or that shall hurt or dig or pull up, or take away any grafts, or fruit trees, and their procurers or receivers knowing the same, being thereof convict by confession of the party, or by the testimony of sufficient witnesses upon oath before any court, or any one justice of the peace in the province, where the offence shall be committed, shall pay unto the party injured such recompence as by the court or justice before whom the trespass is found, shall be awarded.

Penalty for
cutting or carry-
ing off trees, &c.
from off another
man's land, or
common.

Penalty.

Forfeiture upon
a second con-
viction.

Children or
servants
offending, how
to be punished.

And be it Enacted by the Authority aforesaid, That if any person or persons shall cut or carry off any manner of wood, underwood, timber, poles or trees standing, lying, or growing on the land of any others ; or of, or from the commons of any precinct or parish, other than that to which he doth belong ; or within the same precinct or parish, having no right or privilege there, without leave or license from the major part of the propriety of such commons, or the owner or owners of the land whereon such wood, underwood, timber, poles, or trees were standing, lying or growing ; every person so offending shall forfeit and pay unto the party or parties injured, or trespassed upon, the sum of twenty shillings for every tree of one foot over : and ten shillings for every tree or pole under that bigness, and other wood or underwood, treble the value thereof, to be recovered by action, bill, plaint, or information before any justice of the peace in this province, if the forfeiture exceed not forty shillings ; but if it be above that value then before the inferiour court of common pleas within this province. And if any person shall be convict of such offence a second time, he shall forfeit and pay to the use of the poor of the parish where the offence is committed, the sum of twenty shillings, or suffer one month's imprisonment, over and above the forfeiture abovesaid, or damages to the party injured.

And be it further Enacted by the Authority aforesaid, That if any children or servants shall offend against this act in any of the particulars therein mentioned, and their parents or masters refuse to answer the forfeiture or damage awarded against them, they shall be punished by whipping, setting in the stocks, or cage, or by imprisonment, at the discretion of the court or justice before

whom the prosecution shall be, according to the nature and degree of the offence, and circumstances aggravating the same.

And be it further Enacted by the Authority aforesaid, That when, in action of trespass brought before a justice of peace, the defendant shall justify, and demur upon plea or pretence of title, a record shall be made thereof, and the matter of fact be taken *pro confesso*; and the party making such plea, shall become bound with one or more sureties by way of recognizance unto the adverse party, in a reasonable sum, not exceeding twenty pounds; on condition that he shall pursue his plea, and bring forward the suit for a trial of his title at the next inferior court of common pleas, and pay, and satisfy all such damages and costs as by the said court shall be awarded against him: Which recognizance the justice is hereby impowered to require, and take, and shall be paid for the same by the reconusor two shillings, and one shilling for recording his plea; and at the charge also of the same party shall certify the process and record of such plea, together with the recognizance, unto the said inferior court of common pleas; and if such reconusor shall neglect to bring forward such suit at the said inferior court, according to the tenure of his recognizance, the default shall be recorded, and a writ of *scire facias* be issued out of the clerk's office of the same court, in manner, as by law is directed, for the recovery of the sum or penalty in the recognizance mentioned, of him, and his surety or sureties: Or if upon trial before the said court, he shall not make out a title to the land or tenement on which the trespass is said to be done paramount to or better than the possession, or other title of the adverse party, judgment shall be rendered for the party trespassed upon, for treble damages and cost of suit. But if the defendant in trespass justifying on plea of title, shall refuse or neglect to become bound in manner as aforesaid, then his plea shall abate, and the justice notwithstanding the same, shall proceed to try the cause, or enter his default as the case may require: And upon due proof of the trespass committed by him, shall award damages against him according to what shall be made out, and costs of suit: Any law, usage, or custom to the contrary notwithstanding.

In action of trespass before a justice of peace, if the defendant justify on plea of title, the cause to be removed and bond given.

Upon neglect or refusal to give bond the case to proceed.

AN ACT TO PREVENT INCROACHMENT UPON HIGH-WAYS.

Pass'd 13th of Anne.

Forasmuch as divers incumbrances and incroachments have been made in and upon the common roads, high-ways and streets heretofore laid out, within the several towns of this province:

Preamble.

For Redress whereof;

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That henceforth no edifice, building, or fence whatever, shall be raised, erected, built or set up in, upon, over, or across any of the

No edifice, building or fence

to be set on
high ways.

The quarter
sessions to hear
and determine.

And demolish.

Building watch
houses, cages,
stocks, not for-
bidden by this
act.

said roads, high-ways, streets, lanes or alleys within this province, or any part of any of them whereby to stop them up, or streighten the passage, or any ways, lessen the full breadth of any such roads, high-ways, streets, lanes or alleys : And if any edifice, building, or fence whatsoever, shall be raised, erected, built, or set up, on, in, or over any such road, high-way, street or alley contrary hereunto every such edifice, building or fence, shall be deemed and held to be a common nuisance : And the court of general sessions of the peace within this province, upon complaint, and making out the same before them, are hereby impowered to order, and cause such edifices, buildings, or fence to be taken down, demolished, and removed ; and also to cause to be removed all such Incroachments, or incumbrances, as heretofore have been made upon, in, or over any common road, high-way, or street, as aforesaid ; and the charge thereof to be answered, and paid by disposing of so much of the materials, as shall be necessary to satisfy the same ; and what shall be wanting for that purpose to be paid by the person who erected or continued such nuisance, in any of the cases aforesaid. Also to give sentence for all legal costs, and award execution accordingly.

Provided nevertheless, That this act shall not be intended, or construed to intend the prohibiting of the setting up of any conduit, watch-house, cage, or stocks for publick use, in or upon any high-way, or street within this province.

Passed 13th of
Wm. 3.

AN ACT AGAINST ADULTERY AND POLYGAMY.

Preamble.

Whereas the violation of the marriage covenant is highly provoking to God, and destructive to families :

Be it therefore Enacted by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

A man found in
bed with another
man's wife.

That if any man be found in bed with another man's wife, the man and woman so offending, being thereof convicted, shall be severely whipped, not exceeding thirty stripes ; unless it appear upon trial, that one party was surprised, and did not consent, which shall abate the punishment as to such party.

Adultery.

And if any man shall commit adultery, the man and woman that shall be convicted of such crime before his Majesty's justices of the superior court of judicature, shall be set upon the gallows by the space of an hour, with a rope about their necks, and the other end cast over the gallows ; and in the way from thence to the common goal shall be severely whipped, not exceeding forty stripes each : Also every person and persons so offending, shall for ever after wear a capital letter A, of two inches long, and proportionable in bigness, cut out in cloth of a contrary colour to their cloaths, and sewed upon their upper garments, on the outside of

The punishment.

their arm, or on their back in open view. And if any person or persons having been convicted and sentenced for such offence, shall at any time be found without their letter so worn, during their abode in this province, they shall by warrant from a justice of the peace, be forthwith apprehended, and ordered to be publickly whipped, not exceeding fifteen stripes, and so from time to time, *toties quoties*.

And be it further Enacted by the Authority aforesaid, That if any person or persons within this his Majesty's province, being married, or which hereafter shall marry, do at any time after the day of the date hereof, presume to marry any person or persons, the former husband or wife being alive, or shall continue to live so married; that then every such offence shall be felony; and the person or persons so offending shall suffer death, as in cases of felony.

Felony for married persons to marry again.

And be it further Enacted and Declared by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and it is hereby Enacted and Declared, by the Authority of the same, That if any married person, man or woman, hath lately, or hereafter shall go to sea in any ship or other vessel bound from one port to another, where the passage is usually made in three months time; and such ship or other vessel hath not been or shall not be heard of within the space of three full years, next after their putting to sea from such port; or shall only be heard of under such circumstances as may rather confirm the opinion commonly received, of the whole company's being utterly lost; in every such case, the matter being laid before the Governor and Council, and made to appear, the man or woman whose relation is in this manner parted from him or her, may be esteemed single, and unmarried; and upon such declaration thereof, and license obtained from that board, may lawfully marry again: Any law, usage or custom to the contrary notwithstanding.

Liberty to marry again in three years absence of husband or wife.

AN ACT FOR THE RELIEF OF IDEOTS AND DISTRACTED PERSONS. Pass'd 13th of Anne.

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That when and so often as it shall happen that any person is naturally wanting of understanding, so as to be incapable to provide for him or her self; or by the providence of God fall into distraction, and become *non compos mentis*, and no relation appear that will undertake the care of providing for them; in such case, or cases, the select-men or overseers of the poor of the town or parish where such person was born, or is by law an inhabitant, be, and hereby are, impowered and enjoined to take effectual care, and make all necessary provision for the relief, support, and safety

Selectmen to make necessary provision for the relief of ideots and distracted persons.

of such impotent or distracted person, at the charge of the town or parish whereto he or she of right belongs, if the party hath not estate of his or her own, the incomes whereof may be sufficient to defray the same.

Quarter sessions to order the estate of such persons for improvement.

And the justices of the peace within this province, at their general sessions, may order and dispose the estate of such impotent or distracted person to the best improvement and advantage to his or her support; as also put the person to any proper work or service he or she may be capable to be employed in, at the discretion of the select-men, or overseers of the poor.

Superior court to license the sale of housing and lands of distracted persons, in case.

And where the estate of any such person consists of housing or lands, in every such case the justices of the superior court of judicature, upon application to them made, may and hereby are empowered to licence and authorize the select-men or other officers of the town or parish whereto such person belongs, or such other person or persons as the said justices shall think fit, to make sale of such houses or lands; the produce thereof, upon sale, to be secured, improved, and employed to and for the use, relief, and safety of such impotent, or distracted person, as the said justices shall direct, as long as such person shall live, or until he or she be restored to a sound mind, and capacity to take care of him or her self, and the over-plus (if any be) to and for the use of the right and next heirs of party.

And the like power and authority is hereby granted unto the justices of the said superior court, with reference to any person or persons now under such disability, as well for the satisfying the charges already past, as for what may be future, for the support, relief, and safety of any such person.

Pass'd 13th of Anne.

AN ACT TO PREVENT INCESTUOUS MARRIAGES.

Preamble.

Although the General Assembly doth not take in hand to determine what is the whole breadth of the divine commandment, respecting unlawful marriages, yet for preventing that abominable dishonesty and confusion which might otherwise happen;

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Degrees of kindred forbidden marriage.

That no man shall marry any woman within the degrees hereafter nam'd in this act: (That is to say,) No man shall marry his grand-fathers wife, wives grand-mother, fathers sister, mothers sister, father's brother's wife, mothers brothers wife, wives fathers sister, wives mothers sister, fathers wife, wives mother, daughter, wives daughter, sons wife, sister, brothers wife, wives sister, sons daughter, daughters daughter, sons sons wife, daughters sons wife, wives sons daughter, wives daughters daughter, brothers daughter,

sisters daughter, brothers sons wife, sisters sons wife, wives brothers daughter, wives sisters daughter. And if any man after the publication of this act, shall hereafter marry or have carnal copulation with any woman who is within the degrees before recited in this act, every such marriage shall be, and is hereby declar'd to be null and void: And all children that shall hereafter be born of such incestuous marriage or copulation, shall be for ever disabled to inherit by descent, or by being generally named in any deed or will by father or mother.

And be it further Enacted by the Authority aforesaid, That every man and woman who shall marry, or carnally know each other, being within any of the degrees before recited in this act, and shall be convicted thereof before her Majesty's justices of assize and general goal delivery, such man and woman so convicted, shall be set upon the gallows by the space of an hour, with a rope about their neck, and the other end cast over the gallows, and in the way from thence to the common goal, shall be severely whipped, not exceeding forty stripes each. And every person so offending, shall for ever after wear a capital I of two inches long, and proportionable bigness, cut out in cloth of a contrary colour to their cloaths, and sewed upon their upper garments, on the outside of their arm, or on their back, in open view. And if any person or persons, having been convicted and sentenced for such offence, shall at any time be found without their letter so worn, during their abode in this province, they shall, by warrant from a justice of the peace, be forthwith apprehended, and order'd to be publicly whipped, not exceeding fifteen stripes, and so from time to time *toties quoties*.

Penalty on any that shall marry within those degrees.

And be it further Enacted by the Authority aforesaid, That if any man or woman, whose marriage is by this present act declar'd null and void, shall be so hardy as to converse together as man and wife, or shall continue to dwell in the same house, at any time after the space of forty days, next after the publication of this present act, and be thereof convicted: And if any man or woman who shall hereafter be divorced, or their marriage declared to be null or void, shall co-habit and converse together as man and wife, and be thereof convicted, all and every such person shall suffer the pains and penalties as mention'd in an act past in this province, intituled, An act against Adultery and polygamy; which in and by the said act are set and impos'd upon such as shall be taken in adultery: And it shall be in the power of the justices of the superior court of judicature to assign unto any woman so separated, such reasonable part of the estate of her late husband, as, in their discretion, the circumstances of the estate may admit, not exceeding one third part thereof.

Penalty on such whose marriage is declared null, to converse or dwell together.

Vide page 48.

Pass'd 13th of Anne. AN ACT FOR THE PARTITION OF LANDS, AND THE RECOVERY OF LEGACIES.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Joint tenants to be compelled to divide by writ of partition.

That all persons having or holding, or that shall hereafter have, or hold any lands, tenements, or hereditaments, as coparceners, joint tenants, or tenants in common, may be compelled by writ of partition, at the common law, to divide the same, where the parties cannot agree to make partition thereof by themselves.

Residuary legacy to be sued for at common law.

And it is further Enacted by the Authority aforesaid, That where any certain legacy is or shall be bequeathed and given by any person, in his or her last will and testament ; as also where any residuary or uncertain legacy, is or shall by the accompt of any executor be reduced to a certainty ; every such legacy or legacies, as aforesaid, may be sued for, and recovered at the common law : Any law, usage, or custom to the contrary notwithstanding.

Pass'd 13th of Anne.

AN ACT FOR THE CONVENIENT AND SPEEDY ASSIGNMENT OF DOWER.

Preamble.

Forasmuch as some direction in the law is necessary that women may be enabled to come by their dower :

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That when and so often as the heir or other person having the freehold, shall not within one month after demand made, assign and set over to the widow of the deceased, her dower or just third part of, and in all houses, lands, tenements or hereditaments, whereof she is dowable at the common law, to her satisfaction, according to the true intendment of law ; then such widow may sue for, and recover the same by writ of dower, to be therefor brought against such persons as have, or claim to have right, as aforesaid, in said estate, in manner and form following :

That is to say,

Province of } By the grace of GOD of Great-Britain, France
New-Hampshire. } and Ireland, Defender of the Faith, &c.

To the sheriff of our said province, his under-sheriff, or deputy,
Greeting.

Command *B. D.* of *G.* within the said Province — Addition.
—— that instantly without delay —— render to *C. D.* who

was the wife of *E. D.* late of *M.* ——— Addition. ——— deceased, her reasonable dower, which happens to her of a certain messuage or tenement with the appurtenances situate in *G.* aforesaid, bounded as follows, viz. ——— in the possession of the said *C. D.* which was in the seizen and possession of her said husband *E. D.* and whereof he was seized in his demesne as of fee during the coverture, and whereof she hath nothing, as she saith: And the said *C. D.* complains that the said *B. D.* hath deforced her thereof, and unless the said *B. D.* shall so do, then summon by good and lawful men in your sheriffwick the said *B. D.* that he be before our justices of our next inferior court of common pleas to be holden at ——— for the province aforesaid, on the first Tuesday in ——— then and there to shew cause why the said *C. D.* her reasonable dower, as aforesaid, ——— doth not render, and have you the names of them by whom you summons *B. D.* and this writ. Witness *R. W.* Esq; at ——— the ——— day of ——— in the ——— year of our reign. *Annoque Domini,*
B. G. Clerk.

And be it further Enacted by the Authority aforesaid, That upon judgment being given for any woman to recover her dower in any estate of houses and lands, and other hereditaments which were her husband's, reasonable damage shall also be assigned to her from the time of the demand made, and a writ of seizin shall be directed to the sheriff of the said province, his under-sheriff or deputy, in manner and form following. (That is to say.)

Province of } By the grace of GOD of Great-Britain,
 New-Hampshire. } France & Ireland, defender of the faith, &c.

To the sheriff of our said province, his under-sheriff, or deputy,
Greeting,

Whereas *C. D.* widow, who was the wife of *E. D.* late of *B.* in the province aforesaid, ——— Addition. ——— deceased, before our justices of our ——— court of ——— holden at ——— for our province aforesaid, on the ——— day of ——— now last past, did recover her seizin against ——— of *B.* aforesaid ——— Addition. ——— of one third part of a certain messuage or tenement, &c. ——— with the appurtenances, situate in ——— aforesaid, in possession of the said ——— as her dower of the endowment of the said ——— her certain husband, by our writ of dower, whereof she hath nothing. Therefore we command you that to the said *C. D.* full seizin of one third part of the aforesaid messuage or tenement, &c. with the appurtenances you cause to be had without delay, to hold to her in severalty by metes and bounds. We command you also that of the goods or chattels of the said ——— within your precinct, you cause to be paid and satisfied unto the said *C. D.* at the value thereof in money, the sum of ——— for damages awarded her by our said court for her being held and kept out of her dower aforesaid, and costs expended on the suit, with two shillings more for this writ; and thereof also to satisfy your self, your own fees: And for want of goods or chattels

of the said *A. B.* to be by him shewn unto you, or found within your precinct, to take his body and commit him to the keeper of our goal in Portsmouth, in our province aforesaid, within the said prison, whom we likewise command to receive the said *B.* and him safely to keep, until he pay unto the said *C. D.* the full sum above mentioned, and also satisfy your fees: Hereof fail not, and make return of this writ, and how you shall have executed the same, to our next ——— court of ——— to be holden at ——— for our said province, on the ——— day of ——— next. Witness *E. G.* Esq; at Portsmouth, the ——— day of ——— in the ——— year of our reign. *Annoque Domini,*

T. A. Clerk.

And where no damage shall be awarded, the writ to run only for seizin and cost of suit.

And the sheriff of the province, or his deputy, to whom such writ is directed, is to cause her third part or dower in such estate to be set forth unto her by five freeholders of the neighbourhood upon their oaths, (three at least to agree) who shall be sworn before a justice of the peace, to set forth the same equally and impartially, without favour or affection, as convenient as may be; which oath every justice of the peace is hereby impowered to administer.

And be it further Enacted by the Authority aforesaid, That of inheritances that be intire, where no division can be made by metes and bounds, so as a woman cannot be endowed of the thing itself, she shall be endowed thereof in a special and certain manner, as of a third part of the rents, issues, or profits thereof, to be computed and ascertained in manner as aforesaid.

And no woman that shall be endowed of any lands, tenements, or other inheritances, as aforesaid, shall commit or suffer any strip or waste thereupon, but shall maintain the houses and tenements, with the fences and appurtenances thereof, with which she shall be so endowed, in good repair during her term, and leave the same so at the expiration thereof; and shall be liable to action for any strip or waste by her done, committed, or suffered.

And be it further Enacted by the Authority aforesaid, That when the defendant in a writ of dower shall suffer judgment to pass against him by default, no damages shall be awarded against him by such judgment, for having held and kept the demandant out of her dower, but she shall recover the same in like manner as she might sue for or recover damages in other cases: Any law, usage or custom to the contrary notwithstanding.

AN ACT DIRECTING THE PROCEEDINGS AGAINST FORCEABLE ENTRY AND DETAINER. Pass'd 13th of Anne.

Be it Enacted and declared by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That upon complaint made to any one or more justices of the peace, of any wrongful and forceable entry made into any lands, tenements, or other possession, lying within this province, or of any wrongful detainer of any lands, tenements, or other possession, with force and strong hand ; every such justice or justices, within convenient time, at the costs of the party grieved, shall go to the place where the force is, taking with him the sheriff or his deputy, and other sufficient power of the town or province, at his discretion, if need be to aid him ; and all the people of the province, as well the sheriff as others, shall be attending to the said justice or justices, and assist him and them to arrest such offenders upon pain of imprisonment, and to make fine to the Queen.

Justices on complaint made of forceable entry, &c. to repair to the place.

Penalty on such who neglect to assist the justices.

And that two justices, *quorum unus*, shall have authority and power to enquire by the oaths of the people, as well of them that make forceable entry into lands, tenements, or other possessions, as of them that hold the same by force ; and if it be found upon such enquiry, that a forceable entry is made into any lands, tenements, possessions, or that the same is held with force, then such justices shall cause the same lands, tenements or possession to be resiezed, and thereof the party again to be put into possession, who in such sort was put out or holden out.

Upon an inquisition found restitution to be made.

And to the end that enquiry be so made as aforesaid, such justices shall make out their warrants or precepts, directed to the sheriff of the said province, or his deputy, commanding him on the Queen's behalf, to cause to come before them eighteen sufficient and indifferent persons, dwelling near unto the lands or tenements so enter'd and held as aforesaid, whereof fourteen at least to be impannelled to inquire in this behalf, each of whom to have freehold lands or tenements of the yearly value of forty shillings at the least, who shall be sworn by such justices, well and truly to enquire of such forceable entry or forceable detainer, and to return a true verdict therein according to their evidence : And if the sheriff shall make default in not duly executing of such warrant or precept to him directed, he shall be fined the sum of twenty pounds for every default ; and every juror summon'd by the sheriff making default by his non-appearance, shall pay a fine of twenty shillings : Every justice to be paid ten shillings per diem : the sheriff six shillings per diem ; and every juror two shillings per diem, upon every enquiry to be made, as aforesaid.

A jury to be impannelled and sworn.

Penalty for default in the sheriff or jurors.

Allowance to justices, sheriff, jurors, &c.

And be it further Enacted by the Authority aforesaid, That any justice or justices, as aforesaid, may impose a fine upon every offender committing such force as aforesaid, not exceeding the sum of forty shillings, and bind them to the good behaviour ; and imprison such offenders till they pay such fine, and find sureties for

the behaviour until the next court of general sessions of the peace within this province, and then to appear; and if the offence be aggravated, by an open and high-handed breach of the peace, or otherwise, may bind the offenders over to appear at the next general sessions of the peace, to answer for the same, who may increase the fine according to the aggravation and circumstances of the offence. All fines arising by virtue of this act, to be to and for the use and support of this her Majesty's government. And the party griev'd shall recover treble damages and cost of suit, by action of trespass against the defendant, or defendants, if it be found by verdict, or in any other manner by due form of law, that they entered into such lands or tenements by force, or after entry did hold it by force: Any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That this act shall not be construed to extend unto any person or persons that have had the occupation, or have been in quiet possession of any lands, tenements or possessions, by the space of three whole years, together next before, and his, her or their estate or estates therein not ended or determined.

Pass'd 13th of
Anne.

AN ACT PROHIBITING THE IMPORTATION OR BRINGING INTO THIS PROVINCE ANY INDIAN, SERVANT OR SLAVES.

Preamble.

Whereas divers conspiracies, outrages, barbarities, murders, burglaries, thefts, and other notorious crimes and enormities, at sundry times have of late been perpetrated and committed by Indians and other slaves within several of her Majesty's plantations in America, being of a malicious, surly and revengeful spirit, and very ungovernable; the over great number and increase whereof within this province is likely to prove of fatal and pernicious consequence to her Majesty's subjects and interest here, unless speedily remedied, and is a discouragement to the importation of white christian servants.

Be it therefore Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

The penalty.

That from and after the publication of this act, all Indians, male or female, of what age so ever, that shall be imported or brought into this province by sea or land; every master of ship or other vessel, merchant or person, importing or bringing into this province such Indian, male or female, shall forfeit to her Majesty for the support of the government, the sum of ten pounds per head, to be sued for and recovered in any of her Majesty's courts of record, by action, bill, complaint, or otherwise; to be paid into the treasury, for the use aforesaid.

AN ACT RELATING TO ATTORNEYS.

Pass'd 13th of
Anne.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That the plaintiff or defendant in any suit may plead or defend his cause by himself in his proper person, or with the assistance of such other person as he shall procure.

And be it further Enacted, That all attorneys commonly practising in any of the courts of justice within this province, shall be under oath, which oath shall be administered to them by the clerk in open court, before the justices of the same, at the time of their being admitted to such practice, in the tenor following.

Attorneys to be
under oath.

That is to say,

You shall do no falshood, nor consent to any to be done in the court, and if you know of any to be done, you shall give knowledge thereof to the justices of the court, or some of them, that it may be reformed. You shall not wittingly or willingly promote, sue or procure to be sued any false or unlawful suit, nor give aid or consent to the same. You shall delay no man for lucre or malice, but you shall use yourself in the office of an attorney within the court according to the best of your learning and discretion, and with all good fidelity, as well to the court as your client. So help you God.

Form of an at-
torney's oath.

And the fee to be allowed for an attorney in the superior court of judicature shall be twelve shillings, and in the inferior court of common pleas ten shillings, and no more ; and but one attorney to be paid for or taxed in the bill of cost in any case ; and none but such as are allowed and sworn attorneys, as aforesaid, shall have any fee taxed for them in bills of cost : Any law, usage or custom to the contrary in any wise notwithstanding.

Attorneys fee.

AN ACT FOR MAINTENANCE AND SUPPLY OF THE MINISTRY
WITHIN THIS PROVINCE.

Pass'd 13th of
Anne.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That it shall and may be lawful for the freeholders of every respective town within this province convened in publick town-meeting, as often as they shall see occasion to make choice of, and by themselves, or any other person or persons by them appointed, to agree with a minister or ministers for the supply of such town, and what annual salary shall be allowed him or them ; and the minister or ministers so made choice of and agreed with shall be

See the act for
regulating town-
ships, &c. page
29.

accounted the settled minister or ministers of such town ; and the select-men, for the time being, shall make rates and assessments upon the inhabitants of the town for the payment of the ministers salary, as aforesaid, in such manner and form as they do for defraying of other town charges ; which rates by warrant from a justice of the peace, with the select-men, or major part of them, directed to the constable or constables of the town, shall be by him or them collected and paid according to the direction of the select-men, for the end aforesaid.

Proviso.

Provided always, That this act do not at all interfere with her Majesty's grace and favour in allowing her subjects liberty of conscience ; nor shall any person, under pretence of being of a different perswasion, be excused from paying towards the support of the settled minister or ministers of such town aforesaid ; but only such as are conscientiously so, and constantly attend the publick worship of God on the Lord's-day according to their own perswasion, and they only shall be excused from paying towards the support of the ministry of the town.

And it is hereby further Enacted and Ordained, That for building and repairing of meeting-houses, ministers houses, school-houses, and allowing a salary to a school-master, of each town within this province ; the select-men in their respective towns, shall raise money by an equal rate and assessment upon the inhabitants, in the same manner as in this present act directed for the maintenance of the minister ; and every town within this province shall from and after the publication hereof provide a schoolmaster for the supply of the town.

Pass'd ad of
Geo. 1.

AN ACT FOR THE INSPECTING AND SUPPRESSING OF DISORDERS
IN LICENSED HOUSES.

*Be it Enacted and Declared by the Lieutenant Governor, Council,
and Representatives, convened in General Assembly, and by the
Authority of the same :*

All taverners,
&c. to be pro-
vided with
victuals, &c.

That all innholders, taverners, and common victuallers, shall at all times be furnish'd with suitable provisions and lodging, for the refreshment and entertainment of strangers and travellers ; pasturing, stable-room, hay and provender for horses ; on pain of being deprived of their licence.

No taverner to
suffer a Negro,
servant &c. to
sit drinking, &c.

And that no person who is or shall be licenced to be an innholder, taverner, common victualler, or retailer, shall suffer any apprentice, servant or negro, to sit or tarry drinking in his or her house, or to have any strong drink or spirituous liquors there, without special order or allowance of their respective masters ; on pain of forfeiting the sum of ten shillings for every such offence.

No inhabitant
to sit drinking
after ten o'clock,
or more than 2
hours.

Neither shall any licenced person suffer any inhabitant of such town where he dwells, or coming thither from any other town, to sit drinking or tipling after ten o'clock at night, in his or her

house, or any of the dependencies thereof, or to continue there above the space of two hours, (other than travellers, persons upon business, or extraordinary occasions) on the like penalty of ten shillings for every offence. And no person or persons licenced, as aforesaid, shall suffer any person to drink to drunkenness or excess, in his or her house, nor shall suffer any person as his or her guest, to be and remain in such house, or any the dependencies thereof, on the Lord's-day, (other than strangers, travellers, or such as come thither for necessary refreshment) on pain of forfeiting the sum of five shillings for every offence in that kind. All which fines and forfeitures arising for such offences, shall be one moiety thereof to the use of the poor of the town where the offence is committed, and the other moiety to him or them that shall inform and sue for the same. And every justice of the peace within his precinct, is hereby impowered to hear and determine any such offence, and to commit the offender unto prison, until he pay and satisfy the penalty or forfeiture, or otherwise by warrant cause the same to be levied by distress and sale of the offender's goods.

Penalty of 10s.

No licenced persons to suffer any to drink to drunkenness. Or on the Lord's day.

Fine 5s.

Justices power to hear and determine.

And for the better inspecting of licenced houses, and the discovery of such persons as shall presume to sell without licence.

Be it Enacted by the Authority aforesaid, That the select-men in each town respectively, shall take due care tything-men be annually chosen at the general meeting for choice of town officers, whereof two at least shall be in each town, but not above ten in any, and upon any vacancy to fill up the number at any other town meeting; which tything-men shall have power, and whose duty it shall be, carefully to inspect all licenced houses, and to inform of all disorders or misdemeanours, which they shall discover or know to be committed in them or any of them, to a justice of the peace immediately, or sessions of the peace within the province: As also of all such as shall sell by retail without licence; and other disorders and misdemeanours committed in any such house; and in like manner to present or inform of all idle and disorderly persons, prophane swearers or cursers, sabbath-breakers, and the like offenders; to the intent such offences and misdemeanours may be duly punished and discouraged; every of which tything-men shall be sworn before a justice of the peace, or at the sessions of the peace, to the faithful discharge of his office: each of which tything-men shall have a black staff of two foot long, tip'd at one end with brass or pewter about three inches, as a badge of his office, to be provided by the select-men at the charge of the town.

Tything men to be annually chosen.

Who shall inspect the disorders of licenced houses.

To present swearers, and cursers, &c.

To have a black staff as a badge of their office.

And be it further Enacted by the Authority aforesaid, That if any person, being duly chosen to the said office, shall refuse to take his oath, or serve therein, he shall forfeit and pay the sum of forty shillings, to the use of the poor of the town whereto he belongs, upon conviction, or such refusal before a justice of the peace, or sessions of the peace, where he is summon'd to be sworn; certificate being produced under the hand of the town-clerk, that such person was legally chosen to that office: And the said forfeiture to be levied by distress, and the sale of such persons

Penalty for not serving.

goods, by warrant from a justice of the peace, or sessions of the peace respectively, and deliver'd to the town treasurer, or select-men, for the use aforesaid; and for want of such goods, whereon to make distress, the officer of the said warrant shall be requir'd to seize the body of the offender, and him commit unto prison, and to be there kept until he shall thereto answer and pay the said fine or forfeiture, with charges of levying the same.

And all tything-men that shall inform and prosecute for the breach of any penal act, shall have the benefit of such part of the forfeiture as does by law accrue unto the informer. And all persons prosecuted for breach of any act relating to retailing without licence, may be convicted by two single evidences upon oath, though but one to any breach of such act, so as both the breaches be within one month; the person accused or complained of, not plainly and positively denying the fact.

And be it further Enacted, That every tything-man have power to call every and each offender to appear before the next justice of the peace, without being obliged to make information for that end. And in case of resistance or refusal, the said tything-men shall have power to command assistance, to all intents and purposes, as fully as a constable can or may do in causes of such nature; and all persons whatsoever are hereby obliged to assist them.

Press'd ad of
Geo. I.

AN ACT FOR A CONSTABLES WATCH.

Be it Enacted by his Honour the Lieutenant Governor, Council, and Representatives, convened in General Assembly:

The justices to
order the settle-
ment of a con-
stables watch.

Fine on delin-
quents, 2s.

Select men to
act in case no
justices in the
town.

That the justices of the peace within the several towns of this province, be impowered, and they are hereby impowered to order and direct the settlement of a constables watch in such town or towns, and at such times and seasons as the justice or justices shall see meet, by sending his or their warrant to the constable to warn the respective inhabitants to attend the service: And who-soever neglects his duty herein according to the charge given him by the constable, shall pay a fine of two shillings, to be for the payment of those that do the duty of the delinquents, the remainder for the use of the poor of the town. And where there is no justice in any town, it shall be in the power of the select-men to order such watch, as they think meet: And in case any constable neglect his duty, upon information thereof, he shall be bound over to the sessions by a justice of the peace, and be fined, not exceeding forty shillings.

AN ACT OF PRIVILEGE TO THE MEMBERS OF THE GENERAL ASSEMBLY. Pass'd 4th of Geo. 1.

Upon consideration that the members of the council, and the representatives of the respective towns in this province, are occasioned to be at considerable expence and charge in attending of his Majesty's service in the General Assembly: Preamble.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That every member of the council, during his attendance on the General Assembly, shall receive out of the treasury of this province, the sum of five shillings per diem for his service therein: Members of council, five shillings per day.
And each representative of the respective towns, shall receive the sum of three shillings, out of their town stocks, for his service therein. Representatives 3s. per day.

And furthermore, every member of the council, each representative of any town or district, and each judge of assize within this province, during their continuance in the said respective offices, employment, and trust, shall enjoy the privilege of having one son or servant, such as they shall choose, dwelling in the house, exempted and freed from all impresses, detachments, and military exercises, except watching in their turn, as the law provides: Any law, usage or custom to the contrary notwithstanding. One son or servant freed from impresses.

And further it is Enacted by the Authority aforesaid, That no member of the General Assembly, or his servant, during the time of their sessions, or going to or from thence, shall be arrested, sued, imprisoned, or any ways molested or troubled, or compelled to make answer to any suit, bill, plaint or declaration, or otherwise; cases of high treason, and felony excepted. No member of assembly, or servant to be arrested during sessions.
Treason and felony excepted.

AN ACT TO PREVENT CHARGES ARISING UPON THIS PROVINCE, FOR PRISONERS COMMITTED FOR THEFT. Pass'd 4th of Geo. 1.

Inasmuch as it often happens that persons convicted of theft, and sentenced to make restitution to the party injured, as the law directs, are held a long time in prison, having not wherewithal to satisfy their creditors, or to pay for their keeping, otherwise than by service, thereby occasioning charge to arise: Preamble.

For remedy whereof;

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That henceforth no person or persons convicted and sentenced for committing of theft, shall be held or continued in prison for Prisoners for theft not to be held more than

thirty days after
sentence, &c.

and on account of restitution or damages awarded to the party injured, for more than the space of thirty days next after such judgment or sentence given ; unless the creditor will become engaged, or give caution to the keeper of the prison, to pay and satisfy his charge and expence in keeping of such prisoner, both for the time past, and future, not exceeding two shillings and six pence per week.

Keeper's power
to discharge the
prisoner in case.

And in case the creditor shall refuse or neglect so to do, and shall not dispose of, or take such prisoner in service, or otherwise release him, the keeper shall no longer be chargeable with such prisoner, but may set him at liberty : Any law, usage, or custom to the contrary notwithstanding. And in every such case the prisoner shall pay and satisfy his own fees and charges : and if he be unable, then upon application made by the keeper to any two justices of the same court, before whom the prisoner was convicted, such two justices are hereby empowered to adjust and determine the sum to be paid, and to order and enjoin the prisoner to make satisfaction by service, for such reasonable time as they shall assign, for which term the keeper may dispose of him in service to any of his Majesty's subjects.

The keeper, in
case of a suit
against him,
may give this act
in evidence &c.

And it is further Enacted by the Authority aforesaid, That if any action, bill, suit, or information shall be commenced or prosecuted against the keeper of such prison, for what he shall do in pursuance of this act, he may plead the general issue, not guilty ; and upon issue joined, may give this act, and the special matter in evidence ; and if the plaintiff or prosecutor shall become non-suit, or suffer a discontinuance, or if verdict pass against him, the defendant shall recover costs and damages for the molestation.

Pass'd 4th of
Geo. 1.

AN ACT FOR PREVENTION OF COMMON NUSANCES ARISING BY
SLAUGHTER-HOUSES, STILL-HOUSES, &C., AND CURRIERS.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Quarter sessions
to suppress nu-
sances occasion'd
by slaughter
houses, &c.

That when and so often from time to time, as it shall appear, that any slaughter-houses for killing of meat, still-houses, and houses for trying of tallow, and currying of leather, become a nuisance, by reason of offensive and ill stench proceeding from the same, or otherwise hurtful to the neighborhood ; it shall and may be lawful to and for the court of general sessions of the peace, within this province, to cause inquiry to be made therein by a jury, or to hear and determine any complaint or information thereof, and on proof of the fact, to suppress such nuisance by prohibiting and restraining the further use thereof for the exercise of either of the aforesaid trades, or mysteries, under a fine not exceeding forty shillings a month, to be to the use of the poor of such town where the offence is committed ; or otherwise, as in their discretion

Penalty of forty
shillings.

they shall think fit, by causing the said nuisance to be removed or prevented: And the said court may hear and determine concerning any other nuisance in manner aforesaid.

And be it further Enacted, That the proof of any dead beast or beasts, hanging up in any out-house, or the lying or carrying out the entrails, garbage of beasts, or blood of creature, in or out of such house, shall be sufficient conviction in law, that such house is used for a slaughter-house, within the intent of this law.

Evidence to prove a slaughter house.

AN ACT ABOUT POWDER MONEY.

Pass'd 4th of Geo. 1.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That every foreign ship or vessel above thirty tons, coming into any port or part of this province from over the sea to trade or traffick, all or the major part of the owners whereof are not actually inhabitants of this province, shall, every voyage they make, pay two shillings in money per ton, or one pound of good gun-powder, for the supply of his Majesty's fort and fortifications within this province, to be received by the treasurer, or such other person or persons as shall be appointed to receive the same.

Two shillings per ton, or one pound of gun-powder.

AN ACT AGAINST HAWKERS, PEDLARS, AND PETTY-CHAPMEN.

Pass'd 4th of Geo. 1.

Whereas complaint is made of great hurt to, and the decay of trade occasioned by hawkers, pedlars, and petty-chapmen, passing to and fro through the country, to vend goods, wares, and merchandizes; much of which was purloined, obtained by robbery and stealing, so that divers men of trades, handicrafts-men, and others, none of the best fame, having left off the exercise of their trades and businesses, turn hawkers, pedlars, and petty-chapmen.

Preamble.

For remedy of which mischief;

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That from and after the first day of June, next, no hawker, pedlar, or petty-chapman, or other trading person going from town to town, or other men's houses, and travelling either on foot, or with horse, horses, or otherwise carrying to sell, or exposing to sale, any goods, wares, or merchandizes, be permitted or suffered within this province; and every such offender shall forfeit and pay the

Penalty of
twenty pounds
upon pedlars.

sum of twenty pounds for each offence ; one moiety thereof to be to his Majesty, to and for the support of the government of this province, and the other moiety to the person or persons that shall inform of any such offender or offenders, to be recovered by action, bill, or complaint in any of his Majesty's courts of record within this province.

Pass'd 4th of
Geo. 1.

AN ACT TO PREVENT TRESPASSES IN CUTTING DOWN TREES UPON LAND WITHOUT FENCE.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and it is hereby Enacted by the Authority of the same:

Twenty shillings
damage for cut-
ting a tree with-
out leave.

Who are owners
of land.

That whosoever shall cut down any tree or trees without leave from the owner or owners, shall pay to the party damnified twenty shillings for each tree, or more, according to the value of the trees : And the owner shall be accounted those, or such as derive a right from those to whom the land upon which said trees grow, is laid out, and bounded by the layers out of land chosen in each town, or others legally appointed thereto ; unless in such case where the right of timber belongs to one, and the right of land whereon said timber grows belongs to another, and then the damage accruing by such trespasses, shall be paid to him to whom the right of timber belongs.

A penalty of 40
shillings on him
that cuts down a
bound mark tree.

Justices power
to hear.

No reference to
mast trees.

And whosoever shall cut down any bound-mark trees, shall pay a fine of forty shillings to his Majesty, his heirs and successors, towards the support of this his Majesty's government.

And that every justice of peace within this province, shall have power to hear and determine the causes aforesaid. Always provided, That this act, or anything therein contained, shall not be understood to intermeddle with such trees as his Majesty hath been pleased to reserve for masts, bowsprits, and yards, for supply of his royal navy.

Pass'd 4th of
Geo. 1.

AN ACT FOR PASSING SHERIFFS ACCOMPTS.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

Clerks to deliver
to the sheriff es-
treats within 30
days.

That the clerk of the peace in this province, and clerk of assize, shall deliver unto the sheriff a perfect estreat of all fines, issues, amerciaments, recognizances, monies and forfeitures imposed, set, lost, or forfeited in any sessions of the peace, court of assize, and general goal delivery, or special court of oyer and terminer, by any person due to his Majesty, within the space of thirty days next after the ending of the said courts respectively ; and within

the said time shall deliver unto the treasurer, and receiver-general of this province, a perfect schedule of all such estreats by him delivered to the sheriff, on pain of forfeiting to his Majesty for the support of the government, the sum of five pounds for each neglect, upon conviction thereof before the justices of the same court.

And the justices of each of the said courts respectively, are hereby impowered to audit, examine and adjust the said accompts with the sheriff; and upon payment of what shall be found remaining due thereupon, to grant the sheriff a *quietus est*.

Justices to audit the sheriffs accompts and give *quietus*.

And whensoever any sheriff upon passing his accompts, shall have his *quietus est*, he shall be thereby absolutely discharged of all sums of money, by him levied, and received, and pretended not to be accounted for within the said accompt, whereupon he had his *quietus*; unless such sheriff shall be called in question for such sum or sums of money so pretended to be levied, within two years after the time of such accompt and *quietus*.

Not to be called to account after he hath had his *quietus* 2 years.

And be it further Enacted by the Authority aforesaid, That all and every justice and justices of the peace, at the end of every six months, shall render and deliver to the treasurer, and receiver-general of this province, for the time being, town treasurer, or select-men, respectively, a perfect schedule or accompt of all fines, amerciaments, monies, and forfeitures, imposed, set, or forfeited before such justice, or justices out of court, due to his Majesty, or by law, or town order, particularly applied to the use of such town, or the poor thereof respectively, on pain of forfeiting the sum of five pounds to his Majesty towards support of the government, or to such town respectively, for the defreying the town charges, being duly convicted of neglect therein, to be sued for and recovered by the treasurer, or receiver-general of the province; or such town treasurer, or select-men, for the time being: Any law, usage or custom to the contrary notwithstanding.

Justice of peace to render accompt to the treasurer of all fines, &c.

Penalty of five pounds for neglect.

AN ACT FOR THE BETTER REGULATION OF SWINE GOING AT LARGE.

Pass'd 4th of Geo. 1.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That every town or precinct within this province, at their annual meeting for the choice of town officers, shall choose two or more meet persons to see to the due observance of the laws and orders relating to swine, who shall be sworn as other town officers, to the faithful and impartial discharge of their office. And if any person so chosen shall refuse to serve, or neglect his duty therein, he shall forfeit and pay the sum of twenty shillings, to the use of the poor of said town; and upon his refusal another shall be forthwith chosen in his room, to be under the

Hawards to be chosen.

Penalty for not serving.

To yoke hogs in case the owners neglect it, and have 12d. for every swine.

like penalty, and so till others shall accept of the said service. And every person from time to time so chosen and sworn to the said office, upon complaint made to him of any person or persons within his precinct, neglecting or refusing to yoke and ring his or their swine, as the law directs, shall give notice to him or them forthwith, to cause his or their swine to be yoked and ringed; and if the owner or owners of them neglect or refuse to do it twenty-four hours after notice given, then the said officer shall yoke and ring them, and have twelve pence for every swine found unyoked and unringed.

Penalty for hogs going unyoked or unringed.

And further, the said officers are obliged to take their opportunity several times in the year to pass through their precincts, to see whether the law be attended. And for every swine they shall find going at large, either unyoked or unringed, they may demand and receive of the owner six pence per head; and for every swine that is both unyoked and unringed twelve pence; and if the owner of the said swine refuseth to pay the said sums, then the said officer or officers may impound them, and proceed with them as the law doth direct in case of impounding; or sue for, and recover the same, as is hereafter provided.

To be yoked from the first of April to the last of October yearly.

And be it further Enacted by the Authority aforesaid, That for the future, all swine going at large, shall be sufficiently yoked from the first day of April to the last day of October, yearly; and sufficiently ringed in the nose all the year, so as to prevent damage by their rooting.

And to the intent that all persons may know what a sufficient yoking doth mean;

Dimensions of a yoke.

It is hereby Enacted, That no yoke shall be accounted sufficient, which is not the full depth of the swines neck, and half so much below the neck, and the sole or bottom of the yoke to be three times so long, as the breadth, or thickness of the swines neck.

All penalties or forfeitures arising by vertue of this act, may be recovered by action, bill, plaint or information, in any court proper to try the same.

Pass'd 4th of Geo. 1.

AN ACT RELATING TO STRAYS AND LOST GOODS.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Money or goods found to be entered with the town clerk in six days.

That whosoever shall find any money, or goods lost, whereof the owner is not known; the finder within six days at the farthest, next after, shall give notice thereof in writing unto the clerk of the town, in which they were found, to be entered in a book to be kept for that purpose; and shall also cause the same to be cried by the constable, or publick crier in such town, on three several days, at a publick meeting of the inhabitants thereof, and to be posted up in some publick place; and if the money or goods so

To be cried and posted.

found, be of the value of twenty shillings, or upwards, then to be cried and posted up in like manner at the two next adjacent towns.

And be it further Enacted by the Authority aforesaid, That every person who shall find and take up any stray beast, shall cause the same to be entred, with the colour and marks, natural and artificial, and also to be posted up, and cried, in manner and time as aforesaid; and likewise within twenty-four hours shall put, and from time to time keep a wyth about the neck of such stray horse; on pain of loosing all his charges about it afterwards for his neglect therein.

Stray beasts to be cried, posted and wythed.

And the finder of any lost goods, or stray beast, shall also within the time before mentioned, notify the next justice of the peace within this province, thereof; and such justice shall forthwith thereupon, order the same to be apprized by two meet persons by him to be appointed, and shall administer an oath unto them to deal justly and indifferently therein.

The next justice to be notified of lost goods, &c. to be apprized.

And if the finder of any lost goods, or stray beast, shall neglect to cause the same to be entred, cried, and posted up in manner and time as is before exprest, or to wyth such beast; or if the town-clerk shall neglect to enter any lost money, goods, or strays, whereof he shall be notified, and have tendered unto him the fee of six pence, which he may demand and receive, and no more; such finder, or town-clerk, for such omission and default respectively, shall forfeit and pay to the use of the poor of such town one third part of the full value of such lost money, goods, or strays.

Penalty on the finder for neglect of crying, &c.

And it is further Enacted, That if the owner of any such lost money, goods, or stray beast, appear within the space of one year next after the last day of such publication as aforesaid, and make out his right and title thereto, he shall have restitution of the same, or the full value thereof, allowing and paying three pence for each time it was cried, six pence for entring of it as aforesaid; as also paying such necessary charges as shall have arisen for the keeping of such strays, lost money, or goods, or necessary travel about them, to be adjusted and determined by the justice that ordered the apprizal thereof, or by some other of his Majesty's justices for this province.

Restitution to be made to the owner.

Fee for entring and crying.

And if no owner appear within one year, as aforesaid, then such strays, money, or lost goods shall be to the finder, he paying the one half of the value thereof, all necessary charges being first deducted, according to apprizement, unto the treasurer or overseers of the poor of such town, for the use of the poor thereof; and to be recovered by the town treasurer, select-men, or overseers of the poor respectively, as in other cases, upon neglect or refusal to pay the same.

To be divided if no owner appear.

And it is further Enacted by the Authority aforesaid, That if any owner of any stray beast, or other person, shall take the wyth off from the same, or take away such stray, before all the necessary charges arisen for the entring, crying, and keeping thereof, be defreyed, such person so offending, shall forfeit and pay unto the finder of such stray the full value of the same.

Penalty for taking off the wyth, or taking away any stray.

Penalties, how
to be recovered.

All the penalties and forfeitures in this act mentioned, to be recovered by action, bill, plaint or information before a justice of the peace, where the value exceeds not his cognizance, or in any other of his Majesty's courts within this province.

No stray to be
made from the
first of March to
the first of De-
cember.

Provided, That no person from the first day of March to the first day of December, yearly, shall take up any horse, gelding, mare, or other beast for a stray, or account or use them as strays, though the owner thereof be not known, unless such beast be taken damage feasant in inclosures.

Pass'd 4th of
Geo. 1.

AN ACT FOR SUPPRESSING AND PUNISHING OF ROGUES, VAGABONDS, COMMON BEGGARS, AND OTHER LEWD, IDLE, AND DISORDERLY PERSONS; AND ALSO FOR SETTING THE POOR TO WORK.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Court convened, and by the Authority of the same :

House of cor-
rection to be
provided in this
province.

That there shall be erected, built, or otherwise provided in this province, at the charge of the province, a fit and convenient house of correction, with convenient accommodation thereunto adjoining and belonging, to be used and employed for the keeping, correcting, and setting to work of rogues, vagabonds, and common beggars, and other lewd, idle, and disorderly persons: And until such house of correction is erected, built, or otherwise provided, the common prison may be made use of for that purpose.

Justices in their
sessions to
appoint a master.

And be it further Enacted by the Authority aforesaid, That the justices of peace within this province, at the general sessions of the peace, to be holden for the said province, from time to time may nominate and appoint, at their will and pleasure, an honest fit man to be the master of such house of correction: And it shall and may be lawful to and for the said court, or any one justice of the peace out of court, to send and commit to the said house, to be kept and governed according to the rules and orders of the same, all rogues, vagabonds, and idle persons, going about in any town, begging; or persons using any subtle craft, juggling, or unlawful games, or plays, or feigning themselves to have knowledge in physiognomy, palmistry, or pretending that they can tell destinies, fortunes, or discover where lost or stolen goods may be found; common pipers, fiddlers, runaways, stubborn servants or children, common drunkards, common night-walkers, pilferers, wanton and lascivious persons, either in speech or behaviour, common railers, or brawlers, such as neglect their callings, mispend what they earn, and do not provide for themselves, or the support of their families; upon due conviction of any of the offences or disorders aforesaid.

Rogues, vaga-
bonds, &c. to be
set to work.

And be it further Enacted by the Authority aforesaid, That the master of such house of correction to be appointed as aforesaid,

shall have power and authority, and shall set all such rogues and vagabonds, beggars, and other lewd, idle, and disorderly persons, as aforesaid, that shall be duly sent or committed unto his custody, to work and labour, (if they be able) for such time as they shall continue or remain in the said house ; and to punish them by putting fetters or shackles upon them, and by moderate whipping, not exceeding ten stripes at once, which (unless the warrant of commitment shall otherwise direct) shall be inflicted at their first coming in, and from time to time in case they be stubborn, disorderly, or idle, and do not perform their task, and that in good condition, according as they shall be reasonably stinted ; or to abridge them of their food, as the cause shall require, until they be reduced to better order.

And punished by whipping.

And for the better support and governing of the said house of correction, and for employing of such persons as shall be committed to the same :

Be it further Enacted by the Authority aforesaid, That the justices of the province in their court of general sessions of the peace, shall be, and hereby are authorized and empowered to make necessary rules and orders, from time to time, as they shall find occasion, for the ruling, governing, and punishing of such persons so to be committed agreeable to the laws of this province ; and such rules and orders as shall be made in that behalf by the justices in their general sessions, shall be of force, and be duly performed and put in execution.

Justices in sessions to make orders for governing the house of correction.

And be it further Enacted by the Authority aforesaid, That when any person or persons shall be committed to the said house of correction, from any town or towns in this province, the selectmen of such town to which the said person or persons belong, shall take care, and at the cost and charge of the said town, shall provide, as there shall be occasion, suitable materials, such as shall be necessary and convenient for the keeping such person or persons so committed, to work, during his or their abode there ; and shall deliver the same to the master or keeper of the said house, to be improved for that end. And where any stubborn children, or servants, that are under the immediate care and government of their parents or masters ; the parents or masters of such children or servants (if able) shall take care to provide such things as may be necessary for the keeping them to work and labour, during their abode in the said house. And no person to be committed to the house of correction, that is able to work, shall be in any sort chargeable to the province, for any allowance, either at their bringing in, going forth, or during the time of their abode there, but shall only be allowed for their work the sum of eight pence out of every shilling they shall earn, and the overplus of such their earnings to be unto the master or keeper of the said house to accompt for. And if such persons are masters or heads of families, then and in such case, the whole benefit and profit of their labour, or so much thereof as the court of general quarter sessions of the peace shall think necessary, and direct, shall be for the relief and support of such persons and their families. And if any person or persons to be committed to the said house, shall be unable to work,

How persons sent to the house of correction are to be supported.

or be weak, or sick, then to be relieved by the master or keeper of such house, who shall again be reimbursed what he shall so necessarily expend for the relief of such person or persons, by the select-men of such town to which the said person doth belong; and the select-men to assess the same upon the inhabitants of such town or precinct, except the person or persons so committed to the said house, being unable to work, or being weak, or sick, were at the time of his, her, or their commitment, in their minority, and under the care of their parents or masters; then and in every such case the parents or masters of such person or persons shall reimburse what necessary charges the master or keeper of the said house of correction shall necessarily expend for their relief.

Master of the house to be paid for his care.

And be it further Enacted by the Authority aforesaid, That the master or keeper of the said house of correction, for his care, labour, and service in looking after the person or persons that from time to time shall be committed to his care and custody, and also for relieving any person or persons that shall happen to be weak or sick in his custody, shall have such reasonable allowance and satisfaction made him by the parents and masters of such person or persons so committed, if under their immediate care and government, or otherwise by the town to which said person or persons do belong, as the justices at the court of general quarter sessions of the peace for this province shall direct and appoint, if the earnings of such person or persons be not sufficient to discharge the same, over and above what is allowed them out of their earnings for their relief.

And to keep an account of earnings per the work.

And the master or keeper of every such house shall keep an exact account of all profits and earnings that shall be made by the labour of those under his custody, from time to time; and present the same (upon oath if required) unto the justices of this province at their general sessions of the peace; out of which earnings the said master or keeper of the said house shall have his allowance; and if any overplus be, it shall be to the town to which the said person or persons doth belong, or to their parents or masters, according as the circumstance of the case may be. And the master or keeper of any such house of correction, that shall refuse to account as aforesaid, or shall otherwise be negligent of his duty required by this act, shall be liable to such fine, or punishment, as by the discretion of the court of general sessions of the peace shall be awarded.

And for the better employing and setting the poor to work;

Select men to proportion any assessment that may be granted by the inhabitants of any town, for a stock to set their poor on work.

Be it further Enacted by the Authority aforesaid, That where there is an house already built in any town, with intent to be improved for a work-house to set their poor on work, or shall hereafter be built for that purpose, and the inhabitants of that town shall grant a tax or assessment for the raising of a stock wherewith to provide necessary and suitable materials, tools, and implements for employing and setting their poor to work at such house; the select-men of the same town, for the time being, shall proportion such tax or assessment upon the inhabitants thereof in the most just and equal manner they may, according to the rules and methods, for the time being, prescribed by law for the proportion-

ing the province tax ; and shall grant warrants for the collecting the same, in like manner as the law directs for the gathering other town rates or assessments. And the justices of peace residing in any such town, together with the select-men thereof, are hereby impowered and authorized to nominate and appoint from time to time, three or more sufficient persons of their inhabitants, as a master and wardens, to govern, inspect and take care that all persons of the same town employed at the said work-house, or sent thither by any two justices of the peace, *quorum unus*, to be kept to work there, be held and kept strictly to work : And that all idle and disorderly persons, and such as do not duly perform such reasonable task, or stint, as shall be set them, be punished by moderate whipping, or setting in the stocks.

Master and wardens to be appointed.

Their power.

And all stock, materials, tools, and implements, to be raised and provided as aforesaid, shall be committed into the hands of such master, or wardens, to be managed, used, and employed according to their discretion, for the employing and setting to work all such persons as shall be under their inspection and government. And the said master and wardens are also hereby impowered to demand, sue for, recover, accept, receive, and take any gifts, bequests, and donations that are or shall be made or given by any person or persons to the use of the poor, for and towards a stock for such work-house, and to employ and dispose the same accordingly. And shall once a year, or oftner, from time to time, if required, render an accompt upon oath unto the town, of their management, employment, and disposal of all monies, and other stock to be committed unto them, or that by any other ways or means, as aforesaid, shall come to their hands, and of the profits and incomes made thereof ; and shall have such reasonable allowance and recompence made unto them for their trouble, pains and service in and about this affair, as the town shall agree and order.

Master and wardens to accompt.

And all stock to be raised, or otherwise obtained, as aforesaid, with the increase, profits and improvements from time to time made thereof, shall be kept entire, and applied to and for the ends and uses before-mentioned, and for answering the necessary charges arising on and about the repairing and keeping of the said house, and the subsisting of those that shall be there employed, and to no other use whatsoever.

All stocks to be kept entire for the said works.

And be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for any two justices of the peace, *quorum unus*, to send unto such work-house, to be there employed and kept to work, all persons belonging to the same town, being able of body, that live idly, or disorderly, mispend their time, or that go about begging, or receive alms from the town ; and the master of the house shall receive and keep them to work accordingly.

Two justices may commit to the work house.

Pass'd 4th of
Geo. I.

AN ACT FOR THE ESTABLISHING FORMS OF OATHS.

Be it Enacted and Declared by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That the several forms of oaths here under-written, be, and hereby are established to be given and administred unto the respective officers for whom they are appointed. As followeth:

Councillors
oath.

You *A. B.* being admitted of his Majesty's Council, within this his province, do swear by the everliving God, that you will to the best of your judgment at all times freely give your advice to the Governor, for the good management of the publick affairs of this government, and that you will not directly or indirectly reveal such matters as shall be debated in council, and committed to your secrecy, but will in all things be a faithful and true counselor, when you are thereunto required. So help you God.

Justices oath.

You *A. B.* swear that as a justice of this province, according to the commission given you, you shall dispense justice equally and impartially in all cases, and do equal right to the poor, and to the rich, and after your cunning, wit, and power, and according to law. And you shall not be of council in any quarrel that shall come before you; you shall not set for gift, or other cause; but well and truly you shall do your office of justice of the peace in that behalf, taking only appointed fees: and you shall not direct or cause to be directed any warrant (by you to be made) to the parties, but you shall direct your warrant to the sheriff, his under-sheriff, or deputy, constable, tything-men, or other officers proper for the execution of the same, within this province, and this you shall do without favour or respect to persons. So help you God.

Sheriffs oath.

You swear, that you will well and truly serve the King's Majesty, in the office of the sheriff of this province, and do the king's profit in all things that belongeth to you to do by way of your office, as far forth as you can or may. You shall truly keep the king's rights, and all that belongs to the crown. You shall not respite the king's debts for any gift or favour, where you may raise them without great grievance of the debtors. You shall truly and uprightly treat the people of your sheriffwick; and do right to poor as well as rich, in all that belongeth to your office. You shall do no wrong to any man for any gift, or other benefit, or promise of goods for favour, nor hate. You shall disturb no man's right. You shall truly acquit at the treasury, all those of whom you shall any thing receive of his majesty's debts: You shall nothing receive whereby his majesty may lose, or whereby the right may be letted, or disturbed, or his majesty delayed. You shall truly return and truly serve his majesty's writs, as far forth as shall be to your cunning: You shall take no bailiff into your service, but such as you will answer for; and of true and sufficient men in the province: and shall cause each of your bailiffs to make such oath as you make your self, in that belongeth in their occupation: and over this, in eschewing, and restraint of

the man-slaughters, robberies, and other manifold grievous offences that be done daily; all these things you shall duly observe and keep, as God help you.

You as fore-man of this Inquest for the body of this province; you shall diligently enquire, and a true presentment make of all such matters and things, as shall be given you in charge: the king's majesty's counsel, your fellows, and your own, you shall keep secret: you shall present no man for envy, hatred, or malice, neither shall you leave any unpresented for love, fear, favour, or affection, or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding. So help you God.

Fore man of
grand jury his
oath.

The same oath which your fore-man hath taken on his part, you and every of you on your behalf shall well and truly observe, and keep. So help you God.

Grand jurors
oath.

You shall well and truly try, and true deliverance make, between our sovereign Lord the King, and the prisoner at the bar, whom you shall have in charge, according to your evidence. So help you God.

Petit jurors
oath, in criminal
cases.

You swear, that in all cases betwixt party and party that shall be committed unto you; you will give a true verdict therein, according to law, and the evidence given you. So help you God.

Jurors oath in
civil causes.

You swear, that in the office of town clerk within the town of *P.* whereto you are chosen, you will diligently and faithfully attend and discharge the duty of your place, and duly observe the directions of the law in all things, whereto your office hath relation, and thereby committed to your care and trust. So help you God.

Town clerks
oath.

You swear, that you will from time to time diligently and faithfully discharge and execute the office of ——— within the limits whereto you are appointed, for the ensuing year, and until another be chosen in your place; and that in and by all the particulars mentioned in the laws whereto your office hath relation, and that you will do therein impartially according to law without fear or favour. So help you God.

Oath of leather
sealer, Clerk of
the market,
Culler of Fish,
Packer, Gager,
*medatit, Mutan-
dis.*

Whereas you *A. B.* are chosen constable within the town of *P.* for one year now following, and until another be chosen and sworn in your place: you do swear, that you will carefully intend the preservation of the peace; the discovery and preventing all attempts against the same: that you will duly execute all warrants which shall be sent unto you from lawful authority; and faithfully attend all such directions in the laws, and orders of court, as are or shall be committed to your care: that you will faithfully and with what speed you can, collect, and levy all such fines, distresses, rates, assessments, and sums of money, for which you shall have sufficient warrants according to law; rendering an account thereof, and paying in the same according to the direction in your warrant. And with like faithful speed and diligence, will serve all writs, executions, and distresses in private causes betwixt party and party; and make returns thereof duly into the same court, where they were returnable. And in all these things you shall deal seriously, and faithfully whilst you shall be in office,

Constables oath.

without any sinister respects of favour, or displeasure. So help you God.

Justices of the
superior or infe-
rior courts oath.

You swear, that well and truly you shall serve our sovereign Lord the King, and his People in the office of a justice of ——— court ——— and that you will do equal law and execution of right to all people, poor and rich, after the laws and usage of this province; and in such cases as the law doth especially provide to be relieved in equity, there to proceed according to equity, and good conscience, without having regard to any person. So help you God.

Pass'd 4th of
Geo. 1.

AN ACT TO EASE PEOPLE WHO ARE SCRUPULOUS IN SWEARING.

Forasmuch as sundry persons when called before any of his majesty's courts, or other lawful authority within this province, to give their evidence for the proof of any matter, or controversy depending, out of a tender conscience, are scrupulous of swearing:

Be it therefore Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That in such case and no other, the person or persons so refusing to swear shall give in their evidence, or testimony in manner and form following.

That is to say,

Form of the
testimony.

I *A. B.* do solemnly promise as in the presence of God, to speak the truth, the whole truth, and nothing else but the truth, to the matter or thing in Question.

And be it further Enacted by the Authority aforesaid, That if any such person or persons so refusing, as aforesaid, shall be summoned to serve upon any jury in any court within this province, then such person or persons shall make the engagement following.

Form of jurors
engagement or
promise.

I *A. B.* do solemnly promise as in the presence of God, that I will well and truly try the issue between *C. D.* plaintiff, and *G.* defendant, according to the evidence.

Punishment for
wilful falsehood.

And in case any such person or persons so called to evidence, or to serve upon any jury, and declaring, as aforesaid, shall afterwards be convicted of wilful falsehood, that then and in such case, such person or persons shall undergo the same punishment as in case of wilful perjury is appointed and provided.

Ceremony to be
used in swearing.

And be it Enacted by the Authority aforesaid, That any person or persons desiring the same, shall have the liberty of holding up the hand in swearing; and all oaths so taken shall be accounted good and valid as by laying the hand on the bible.

AN ACT FOR THE BETTER REGULATING OF TOWN AND PROPRIETY MEETINGS. Pass'd 4th of
Geo. 1.

Whereas by reason of the disorderly carriage of some persons in the said meetings, the affair and business thereof is very much retarded and obstructed.

For preventing whereof :

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That at every such meeting, a moderator shall be chosen by a majority of votes, who shall be thereby impowered to manage and regulate the business of that meeting. And when it shall happen that any matters remain doubtful after a vote, the moderator is hereby directed and required, that the same be decided by the pole, if seven, or more desire it, presently after the vote is called in question. In proprietary meetings the polls to be numbered according to their interest.

Moderator to be
chosen by ma-
jority of votes.

Matters remain-
ing doubtful to
be decided by
poll.

And be it further Enacted, That no person presume to speak before leave first obtained from the moderator, nor when any other is orderly speaking. And that all persons be silent at the desire of the moderator, under the penalty and forfeiture of five shillings for the breach of every such order. And if any person being by the moderator notified of such offence shall still persist in the same, that then the moderator shall order such person to withdraw from the said meeting, and such offender upon his refusal thereof shall forfeit and pay the sum of twenty shillings.

No person to
speak without
leave from the
moderator.

The respective forfeitures to be recovered by the town treasurer, or select men of such town wherein any of the aforesaid offences are committed, before any one or more of his majesty's justices of the peace of this province, to be disposed of, the one half for the use of the poor of said town, the other half to the moderator.

Application [of
the penalties.

And be it further Enacted, That when and so often as ten of the freeholders of any town shall signify under their hands to the select-men their desire to have a town meeting called for any particular purpose, and to have any matter or thing inserted into the warrant for calling such meeting, the select-men are hereby required so to do, and to insert the same in the warrant they shall issue for the calling such town meeting. And that no matter or thing whatever shall be voted or determined but what is inserted in the warrant for calling said meeting.

Directions for
calling any
special town
meeting.

Pass'd 4th of Geo. 1. AN ACT FOR PROVIDING OF POUNDS, AND TO PREVENT RESCOUS, AND POUND-BREACH.

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Each town to maintain a sufficient pound. That there shall be a sufficient pound, or pounds, made and maintained from time to time, in every town and precinct, within this province, in such part or places thereof as the select-men thereof shall direct and appoint, at the cost, and charge of such town or precinct, for the impounding and restraining all swine, cattle, or sheep liable to be impounded or restrained, for any of the causes herein after-mentioned.

For what causes cattle are to be impounded. And that it shall or may be lawful to and for any other person or persons, as well as the hawards, or field-drivers, to take up and impound, or cause to be impounded any swine, neat cattle, horses or sheep, as shall be found damage feasant, in any corn-fields, or other inclosure ; or swine found unyoked, or unringed ; neat cattle, horses, or sheep going upon the common not allowed to feed there by the major part of the propriety, who are impowered to permit the same : any law to the contrary notwithstanding. And the owners or claimers of any such creatures impounded, as aforesaid,

Fee for impounding. shall pay the fees for impounding, as followeth, viz. To the haward or field-driver one shilling per head, for all neat cattle, or horses, and three pence per head for all sheep, and swine by him impounded. And to the pound keeper two pence per head for all neat cattle, or horses ; and one penny per head for all sheep or swine, for taking in, and letting out, to be paid by the owners of such creatures ; to be paid into the hands of the pound-keeper, before they be delivered out of pound, and also the damage to the party injured. Unless such owner, or claimer shall think fit to replevie his creatures impounded, and give sufficient bond with one or more sureties to prosecute his replevin with effect in law, either before a justice of peace, within fifteen days inclusive from the date of such replevin, or at the next inferiour court of common pleas to be holden within this province, according to the value of the damages alledged to be suffered, and to pay all such costs and damages as shall be awarded against him.

The owner of creatures impounded to be notified (if known) if not to be posted. And every person impounding any swine, neat cattle, horses, or sheep, shall give present notice thereof unto the owner, if known, or leave a notification thereof in writing at his house or place of usual abode ; or if unknown, shall cause the same to be cried, or posted up in some publick place in such town, and in the two next neighbouring towns, from whence it may be most likely such creatures came ; and shall also cause the creatures so impounded to be

Fee for crying. relieved with suitable meat and water, the charge whereof shall be paid by the owner or owners ; as also of the crying of them, after the rate of three pence per head for a number not exceeding twelve, and no more than three shillings for a greater number.

To be proceeded And if no owner or claimer appear within the space of three days

next after the impounding of any such creatures, then the person or persons so restraining of them, shall proceed with them as the law provides respecting strays.

with as strays,
after three days.

And be it Enacted by the Authority aforesaid, That if any person or persons shall rescue any swine, neat cattle, horses, or sheep taken up, as aforesaid, out of the hands of the haward, or other person being about to drive them to the pound, whereby the party injured may be liable to lose his damages, and the law be eluded; the party so offending shall for such rescous, forfeit and pay the sum of forty shillings to the use of the poor of the town or precinct where the offence is committed, besides all just damages to the party injured; to be recovered by action, bill, plaint, or information in any of his Majesty's courts of record. And if any person or persons shall make any pound breach, or by any other indirect ways or means whatsoever, convey or deliver any creatures impounded out of the pound, the party so offending being duly convicted thereof, shall forfeit and pay the sum of five pounds, to the use of the poor of the town or precinct where the offence is committed, as also all just damages to the party injured by such creatures, to be had and recovered in manner as aforesaid. And if such rescous, pound breach, or conveying of creatures out of the pound, happen to be committed by any apprentices or persons under age, not having of their own wherewith to satisfy the law, and their parents or masters refuse to pay the fine and damages which the law in such cases doth inflict, it shall and may be lawful to and for the justices before whom such action or plaint shall be depending, upon a due conviction of the person or persons complained of, and prosecuted for such offence, to commit him or them to the common goal of this province, there to remain till satisfaction be made, as aforesaid; or otherwise may punish such offender by imprisonment, not exceeding sixty days, in lieu of the fine, and leave the party injured to his remedy at law, to recover his damage of the parent or master of such child or apprentice, which such parent or master respectively shall be liable to have recovered of him upon action to be therefor brought, and execution to be accordingly awarded upon judgment given in that respect.

Penalty for a
rescous.

Penalty for
pound breach.

If acted by
minors how to
be punished.

And be it further Enacted by the Authority aforesaid, That when and so often as any trespass or trespasses shall be done in common or general fields, not being sufficiently fenced in, as the law directs, the party injured shall forthwith procure two sufficient persons of good repute and credit, to view and adjudge of the damage done, giving notice of such trespass unto the owner or claimer of the beast or cattle that did the same, if known, and resident in the same town, or near by, that he may be present, and nominate one of the apprizers, if he see cause, and the damage to be answered according to such estimation: and the same rule shall be observed in all cases of beasts taken damage feasant as aforesaid.

Trespass done
in common or
general fields.

And where damage happens through the insufficiency of the fence, the owner or occupier of the land to which the defective fence belongs, shall be liable to answer and make good all such damage.

Owner of defective
fence to
make good damages.

Cattle impounded, if not released by the owners in 48 hours, shall be appraised and sold to pay damages.

And be it further Enacted by the Authority aforesaid, That if the owner of any neat cattle, horses, sheep, or swine impounded, being duly notified thereof, shall not within the space of forty-eight hours next after such notice given, replevie his creatures, or otherwise orderly obtain their release, the party trespassed upon making application to a justice of peace within this province, for a warrant of apprizement, such justice is hereby directed and empowered to make out a warrant to two or more sufficient indifferent persons, and to administer an oath to them, to make a due and equal apprizement and estimate of the value of such creatures, or so many of them as shall be sufficient to answer the damages and all charges, and the party damnified may retain and keep the creatures so apprizd to his own use, or make publick sale of them at his pleasure, giving twenty-four hours publick notice beforehand of the time and place of the intended sale, and shall account for them according to the produce of such sale, rendering the overplus of the apprizd value (if any be, or of the produce of such sale) to the owner, all legal charges being first deducted.

Pass'd 4th of
Geo. 1.

AN ACT FOR MAKING OF LANDS AND TENEMENTS LIABLE TO THE
PAYMENT OF DEBTS.

Preamble.

Whereas the estate of persons within this province, do chiefly consist of houses and lands, which give them credit, some being remiss of paying their just debts, and others happening to die before they have discharged the same:

Be it therefore Enacted and Ordained by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Lands and tenements liable to payment of debts, and to be taken in execution.

That all lands or tenements belonging to any person in his own proper right in fee, shall stand charged with the payment of all just debts owing by such person, as well as his personal estate, and shall be liable to be taken in execution for satisfaction of the same, where the debtor or his attorney shall not expose to view, and tender to the offender personal estate sufficient to answer the sum mentioned in the execution, with the charges.

Executions served and returned to make a good title.

And all excutions duly served upon any such houses and lands, being returned into the clerk's office of the court out of which the same issued, and there recorded, shall make a good title to the party for whom they shall be so taken, his heirs and assigns for ever.

Limitation of one year for redemption.

Provided nevertheless, That in case the said debtor or debtors, their heirs, executors or administrators shall any time within one year after such return of any execution into the clerk's office go to the creditor, or creditors, their executors, administrators or assigns, and tender and pay to them the full of the debt and charges, mentioned in such execution, and the interest for such debt and charges,

from the time of the return of such execution into the clerk's office, as aforesaid; every such debtor or debtors, their heirs, executors or administrators shall re-enter into such lands and houses by due process of law, and be invested to their former estate in their own proper right, as if such execution had never been levied upon the same. Also where the goods or chattels belonging to the estate of any person deceased, shall not be sufficient to answer the just debts which the deceased owed, or legacies given, and the same appearing so to the judge of the probate of this province, the said judge is hereby empowered to licence and authorize the executors or administrators of such estate to make sale of all or any part of the houses and lands of the deceased, so far as shall be necessary to satisfy the just debts which the deceased owed at the time of his death; and legacies bequeathed in and by the last will and testament of the deceased; and every executor, or administrator being so licenced and authorized, as aforesaid shall and may by virtue of such authority make, sign, and execute in the form of law deeds, and conveyances for such houses and lands as they shall so sell: which instruments shall make a good title to the purchaser, his heirs and assigns for ever.

Judge of probates empowered to license executors or administrators to sell land to pay debts.

Executor or administrator to make deeds of sale.

Provided nevertheless, That any debt or debts due to the Crown from any such estate, shall be first secured and paid out of the same.

Debts due to the crown first to be paid.

And be it further Enacted by the Authority aforesaid, That when any person or persons shall make sale, or other alienation of any lands, or tenements to him of right belonging, with intent to defeat, and defraud his creditors of their just debts, not *bona fide*, for good and valuable consideration truly paid or secured to be paid; all such sales and alienations are to be deemed covenous, and fraudulent, and shall be of none effect to bar any creditor from such debt as is to him owing; nor exempt such land from being taken to satisfy the same in form aforesaid.

Fraudulent deeds to be invalid.

And be it Enacted by the Authority aforesaid, That in real actions upon mortgage or bargain and sale with defeazance, which may be brought for trial in the superior court of judicature, or in the inferior court of common pleas, the judgment shall be conditional; that the mortgager or vender, or his heirs, executors or administrators, do pay unto the plaintiff such sum as the court shall determine to be justly due thereupon, within two months time after judgment entred up, for discharging of such mortgage or sale, or that the plaintiff recover possession of the estate sued for and execution be awarded for the same.

Judgment upon a mortgage sued out to be conditional.

And be it further Enacted by the Authority aforesaid, That when any creditor or creditors shall recover judgment in any of his Majesty's courts for any sum or sums of money, and costs of suit, and the debtor shall not satisfy the judgment in money, or other estate, to the acceptance of the creditor, he shall have execution thereon, and deliver the same to the sheriff of this province, where the debtor's land and houses lie, and are being, who shall cause three apprizers to be chosen, one by the creditor or creditors, another by the debtor or debtors, if he or they so please, and the third by the sheriff; and having taken their oaths before

Lands and houses to be appraised on which execution is laid for payment of a judgment.

Such lands to
be bounded out.

Tenants to at-
torn where
houses or lands
cannot conven-
iently be divided
and bounded.

any justice of the peace, faithfully and impartially to apprise such lands and tenements as shall then be shewed them, as the estate of such debtor, or debtors, they shall apprise the same to satisfy the execution with the officers fees; and set out such lands and tenements by meets and bounds, and the sheriff shall thereupon deliver possession and seizin thereof to such creditor or creditors, or his or their attorney, which being returned and recorded, shall be a good title to such creditor or creditors, saving the equity of redemption, as by law is provided. And when it happens that lands and tenements cannot be divided, and set out by meets and bounds, as aforesaid, then such sheriff shall extend such execution upon the rent of such lands and tenements, and give seizin thereof to such creditor or creditors, or his or their attornies, and cause the tenant or tenants thereof to attorn and become tenant or tenants of such creditor or creditors, and to pay their rents to him or them accordingly; or upon refusal thereof to turn such tenant or tenants out of the possession thereof, and give livery, seizin and possession of the same to such creditor or creditors, to hold and enjoy such lands and tenements till such judgment, interest, and fees be fully satisfied and paid, reserving thereout the widow's thirds or dower, if any be.

Provided always, That it shall and may be lawful for any such debtor or debtors, or his or their agent or attorney, at any time or times before such judgment, interest and charges be fully satisfied, to tender and pay to such creditor or creditors the full of his debt, interest and charges, who is hereby obliged to accept thereof, and surrender up to such debtor or debtors, his agent or attorney, such lands and tenements and deliver up quiet and peaceable possession thereof: Any law, usage or custom to the contrary notwithstanding.

Pass'd 4th of
Geo. 1.

AN ACT FOR THE REGULATING OF THE MILITIA.

Preamble.

Whereas for the honour and service of his Majesty, and for the security of this his province, against any violence or invasion whatever, it is necessary that due care be taken that the inhabitants thereof be armed, trained, and in a suitable posture and readiness for the ends aforesaid, and that every person may know his duty, and be obliged to perform the same:

Be it therefore Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Persons liable
to train.

1. That all male persons from sixteen years of age to sixty, (other than such as are herein after excepted) shall bear arms, and duly attend all musters, and military exercises, of the respective troops and companies where they are listed or belong, allowing three months time to every son next after his coming to six-

teen years of age, and every servant so long, after his time is out, to provide themselves with arms and ammunition, &c.

2. And the clerk of each troop and company, once a quarter, yearly, shall take an exact list of all persons living within the precincts of such troop or company, and present the same to the captain, or chief officer, on pain of forfeiting forty shillings for each default, to be paid to the captain or chief officer to the use of the company: And in case of non-payment to be levied by distress and sale of the offender's goods, by virtue of a warrant from the captain or chief officer, who is hereby impowered to grant the same.

Clerk to take a list four times a year.

3. That every person listed in any troop or company shall so continue and attend all duty in such troop or company, or otherwise suffer the penalty by law provided, until orderly dismiss or removed out of the town or precinct; and in case of removal into the precinct of another company in the same town, to produce a certificate under the hand of the captain or chief officer of the precinct whereto he is removed, that he is listed there.

Persons to attend duty where listed till orderly dismiss.

4. If any person liable to be listed, as aforesaid, do exempt himself by shifting from house to house, or place to place, to avoid being so listed, he shall pay as a fine for every such offence to the use of the company to which he belongs, ten shillings, being convicted before any justice of the peace of this province.

Penalty on such as shall shift to avoid listing.

5. That every listed soldier and householder (except troopers) shall be always provided with a well fix'd firelock musket, of musket or bastard-musket bore, the barrel not less than three foot and a half long; or other good fire-arms, to the satisfaction of the commission officers of the company, a snapsack, cartouch-box, one pound of good powder, twenty bullets fit for his gun, and twelve flints, a good sword or cutlash, a worm and priming-wire fit for his gun; on penalty of six shillings for want of such arms as is hereby required, and two shillings for each other defect, and the like sum for every four weeks he shall remain unprovided; the fine to be paid by parents for their sons under age, and under their command, and by masters or heads of families for their servants, other than servants upon wages.

Foot soldiers how to be armed.

6. That every trooper shall be always provided with a good serviceable horse of ten pounds value, and not less than fourteen hands high, the same to be determined by the two chief commission officers, covered with a good saddle, bit, bridle, holsters, pectoral, and crooper, and furnished with a good carbine, the barrel not less than two foot and half long, with a belt and swivel, a case of good pistols, with a sword or cutlass, a flask or cartouch box, one pound of good powder, three pound of sizeable bullets, twenty flints, and a good pair of boots, and spurs; on penalty of twelve shillings for want of such horse, as is hereby ordered, and three shillings a piece for every other default of providing any of the things aforesaid, and the like sum for every six weeks he shall remain unprovided: And that each trooper list his horse, and shall not dispose thereof, without the consent of his chief officer; on the penalty of five pounds: And for non-appearance at the

Troopers how to be furnished.

time and place appointed for exercise, every listed trooper for each day's neglect shall pay ten shillings fine.

7. That there may be two troops in a regiment, each of which troops shall not exceed sixty men with officers.

Regimental
musters, and
training of par-
ticular com-
panies.

8. That regimental musters shall be but once in three years. And every captain or chief officer of any company or troop in any regiment, shall be obliged, on penalty of five pounds, to draw forth his company or troop, or cause them to be drawn forth four days annually, and no more, to exercise them in motions, the use of arms, and shooting at marks, or other military exercises, which every person liable to train, having been duly warned, and not appearing and attending the same, shall for each day's neglect pay a fine of five shillings.

Commission
officers power.

9. That the commission officers of any troop or company, or the major part of them, may order the correcting and punishing disorders and contempt on a training-day, or on a watch, the punishment not being greater than laying neck and heels, riding the wooden-horse, or ten shillings fine.

Military
watches.

10. That there be military watches appointed, and kept in every town, at such times, in such places, and in such numbers, and under such regulations, as the chief military officers in every town shall appoint; or as they may receive orders from the chief officer of the regiment; and that all persons able of body, or that are of estate, and not exempted by law, shall by themselves, or some meet persons in their stead, to the acceptance of the commander of the watch, attend the same; on penalty of five shillings for each neglect, there having been due warning given.

Penalty for not
attending mili-
tary exercises.

11. Every soldier or other person liable by law, refusing or neglecting to attend military exercises on training-days, or military watchings, that shall not pay, or have no estate to be found whereon to levy the fine, it shall be in the power of the captain, or chief officer of such company on the next training-day, after such neglect, he not having satisfied the clerk, to punish him for such offence, by laying neck and heels, or riding the wooden-horse, not exceeding one hour's time: And if such delinquent shall absent himself the second training-day, without giving sufficient reason to the captain or chief officer for the same, it shall be in the power of the chief officer of the company to direct a warrant to the constable of the town, requiring him to apprehend such delinquent, and bring him into the field that he may be punished according as by this law is provided; and all constables are hereby required to execute such warrants accordingly.

Persons ex-
empted from
training.

12. That the persons hereafter named be exempted from all trainings, viz. The members of the council, the representatives for the time being, the secretary, justices of the peace, masters of art, ministers, elders, and deacons of churches, sheriff, allowed physicians, or chyrurgeons, and profest school-masters, all such as have had commissions, and served as field officers, or captains, lieutenants, or ensigns, coroners, treasurers, attorney-general, deputy sheriffs, clerks of courts, constables, constant ferry-men, and one miller to each grist mill; officers employed in and about his Majesty's revenues, all masters of vessels of thirty tons, and up-

wards, usually employed beyond sea, and constant herds-men, lame persons, or otherwise disabled in body, (producing certificate thereof from two able chyrurgeons) Indians and Negroes.

13. That the persons hereafter named be and hereby are exempted from military watchings, and wardings, viz. The members of the council, secretary, representatives for the time being, ministers, and elders of churches, allowed physicians, and chyrurgeons, constables, constant ferrymen, and one miller to each grist mill.

Persons exempted from military watches.

14. That the captain and commission officers of each company or troop, shall and hereby are fully empowered to nominate and appoint meet persons to serve as serjeants, and corporals, in the respective companies and troops, and to displace them, and appoint others in their rooms, as they shall see meet.

Commission officers to appoint serjeants and corporals.

15. That twice every year, or oftener, if required, every captain or chief officer of each company or troop, shall give order for a diligent enquiry into the state of the company, and for taking an exact list of the names of his soldiers and inhabitants, within the limits of his company, and of the defects of arms, or otherwise, and names of the defective persons, that they may be prosecuted as the law hath directed, and such care may be taken as is proper to remedy the same.

View of arms.

16. That if any person who is by law obliged to provide arms and ammunition, cannot purchase the same by such means as he hath; if he bring to the clerk of the company, corn or other merchantable provision, or vendible goods, so much as by apprizement of the clerk, and two other persons mutually chosen, shall be adjudged of greater value by one fifth part than such arms or ammunition is of; he thereupon shall be excused from the penalty, for want of arms and ammunition, until he can be provided; which the said clerk shall provide as soon as may be by sale of such goods, and render the overplus to the party, if any be; but the party shall notwithstanding give his personal appearance upon all occasions, as other soldiers, until he be supplied, and at such times shall perform any proper service he may be put upon by the captain or chief officer of the company he belongs to: But if the person be judged unable to buy arms, or to lay down the value proposed, if he be a single man he shall be put out to service by the two next justices of the peace, to earn wherewith to buy arms and ammunition: if such person have a family, and be judged unable by the captain and major part of the select-men to lay down such value for the end aforesaid, then he shall be provided for out of the town stock, or by arms procured at the town's charge, until such time as he shall be judged able to provide for himself: and such arms to be under the care of the chief military officer, and the select-men of the town.

How persons unable to purchase arms may be provided.

17. That drums, drummers, trumpets, trumpeters, colours, and banners, be by the commission officers of each troop or company provided at the charge of the respective companies and troops, where there are not already provided, and the fines will not reach to procure the same; and that such as have been employed as drummers or trumpeters, or are fit and capable thereof, being appointed unto such service by the chief officer of any company or

How drums, trumpets, &c. are to be provided.

troop, shall attend the service, on the penalty of forty shillings fine. And every drummer for a year's service, shall have twenty shillings, if he finds his own drum, and ten shillings if the captain finds the drum. And a trumpeter forty shillings a year, if he finds his own trumpet, and twenty shillings if the captain finds it.

Penalty for refusing to serve as clerk.

18. That such meet persons as by the commission officers of any company or troop shall be appointed clerk, and shall refuse to serve, shall pay forty shillings fine, and another be chosen in his room; and so until one do accept; which person shall be under oath for the faithful discharge of his office, to be administred unto him by a justice of peace in this province, in the words following.

Oath.

You do swear truly to perform the office of a clerk of the military company, under the command of *A. B.* captain, to the utmost of your skill and power in all things appertaining to your office, according to law. So help you God.

Allowance.

And for every distraint made for any fine not exceeding forty shillings, he shall have one quarter part for his pains and trouble, and for such fines he may distraint *ex officio*; and in distraining shall observe such rules as the law hath provided in other cases: and upon ten days notice shall accompt with and pay to the captain or chief officer what fines he hath received, his own part being deducted.

Meeting of the chief officers of the regiment.

19. The chief military officer of each regiment, as often as he shall see cause, shall require the captain or chief officer of each company in his regiment to meet at such time and place as he shall appoint; and then with them to confer, and give in charge such orders as by them, or major part of them, be judged meet, for the better ordering and settling their several companies, and for the better promoting of military discipline amongst them; and the chief officer is hereby impowered by his warrant directed to any clerk or officer of his regiment, to summon, or cause to be brought before them, any offender against the laws military, and according to law to hear and determine all matters proper for their cognizance, and to give sentence, and to grant mittimus, or warrant for distraint, to the clerk of the company where the offence is committed, for executing which warrant, if above forty shillings, he shall have ten shillings out of the same, for his pains and trouble therein, and no more.

Town stock of ammunition, &c.

20. That there be a stock of powder and ammunition in each town provided, and from time to time as there is need renewed by the select-men, which shall be a barrel of good powder, two hundred weight of bullets, and three hundred flints, for every sixty listed soldiers, and after that proportion for the listed soldiers of each town, whether more or less. Also that the select-men procure such a number of arms, and so much ammunition as shall be made appear by the chief commission officers of such company in the several towns, to be needful for the supply of such poor as by law they are to provide for: And such town as cannot make it appear to the chief commander of the regiment that they are thus provided, at or before the first day of September next, shall pay five pounds fine, which shall be distrained by warrant from the said officer, directed to the constable, upon the select-men of the

Penalty for being unprovided.

town, or any of them, and disposed of for the use of the said town, towards the supply of such stock ; and the like sum for every three months they shall remain so unprovided.

21. And the select-men, where there is not a sufficient stock of powder, arms, and ammunition ; and in such town where there is need of watch-houses, firing and candles for their watches ; in such case the select-men, for so much as is wanting, are to procure, or satisfy what is required or needed as before, and shall make provision for the same by a rate, equally and justly laid, upon the inhabitants and estate in such towns ; and such rate signed and committed by them to the constables to collect, who shall and hereby are required and authorized to collect the same ; and for non-payment to distrain, as for other rates ; and the money or pay collected to be brought in to the chief military officers and select-men of the town, to be by them improved for the ends aforesaid : And the select-men, or so many of them as shall neglect their duty therein, shall pay twenty shillings fine, to be paid to the captain for the use of the company, being convict before two justices of the peace, who are hereby empowered to convent the party, and to hear and determine the same : And if need be to appoint other meet persons in such towns under the like penalties, to perform the said service.

Select men to make a rate for buying ammunition.

22. That no clerk *ex officio* make distraint for any fine, until four days after the offence committed, that so the party may have opportunity to make excuse, if any he have, why he should not pay the fine. And every clerk that neglects or refuses to accompt, or make payment, as by this law is provided, he by a warrant from the chief officer of the company, directed to the constable, may be distrained on for so much as he hath, or should have collected or distrained for.

Clerk *ex officio* not to distrain within four days.

Penalty for his neglect to accompt, &c.

23. That all officers yield obedience to the warrants or commands of their superior officers, on penalty of five pounds, to be heard and determined at the next meeting of the chief officers and captains of the regiment ; and the fine to be taken by distress and sale of the offender's goods, returning the overplus, if any be, by warrant from the chief officer of the regiment, directed to the clerk of the company to which such offender belongs, and to be improved to the use and benefit of such company, as the officers so met shall agree, their expences being first defrayed out of the same.

Penalty for officers disobeying their superior officers.

24. That an alarm at the castle at New-Castle being made upon such causes as are agreeable to instructions to be given by the governor to the captain of the castle, shall be by putting out two flags, and firing of two great guns up the river, at which time there shall with all possible speed such numbers be sent down for their relief, as the governor and captain-general, or such person as shall be commander in chief in his absence, shall think necessary. At any other place an alarm may be made by firing three guns, one after another, or by firing a beacon, their drums beating an alarm, all persons being called upon to arm ; upon which all the trained soldiers, and others capable to bear arms that are then resident in any town, shall forthwith appear compleat with their

Alarm.

Penalty for not
appearing upon
an alarm.

arms and ammunition according to law, at the usual place of rendezvous, or where the chief officer shall appoint, there to attend such orders as shall be given for his Majesty's service; and that on the penalty of five pounds fine, or three months imprisonment. The members of the council, justices and sheriff to attend upon the governor, if at or near Portsmouth; and in other places, to appear and advise with the chief military officers of the town, and to be assisting in his Majesty's service, according to their quality. And such alarms shall at all times be carried on from neighbourhood to neighbourhood, and from town to town throughout this province. And from such town where the alarm is made, there shall forthwith be dispatched one or more horse-men to signify the occasion thereof to the justice of the peace, chief military officer, or constable of the next town or towns, which all persons are to take notice of and attend, as is before directed. And if the alarm be made at New-Castle, or other town that lyes frontier to, or in great danger of the enemy, the captain or captains of the adjacent towns, shall forthwith go with or send such relief as they shall judge meet, for the offence of the enemy or defence of themselves and neighbours; but so as to be observant of any commands or orders they may receive from their superior officers. And if any person shall wilfully make a false alarm, he shall be fined to his Majesty twenty pounds, for support of the government, or suffer six months imprisonment.

Relief to be sent
to the frontiers.

Penalty for a
false alarm.

Penalty for quar-
tering soldiers,
&c. upon inhab-
itants.

25. No officer, military or civil, or other person, shall quarter or billet any soldier or seaman upon any inhabitant within this province, without his consent, other than the publick licensed houses, under the penalty of one hundred pounds, to be recovered by action, bill, plaint, or information in any court of record; one half to his Majesty for the support of the government, the other half to the party grieved that shall inform and sue for the same; and every such inhabitant may refuse to quarter any soldier or seaman, notwithstanding any order whatever.

26. That all persons exempted by this law from trainings, shall notwithstanding be provided with arms and ammunition compleat, upon the same penalty as those that are obliged to train.

Fines and for-
feitures how to
be disposed and
recovered.

27. All fines, penalties and forfeitures arising by virtue of this act, or any breach thereof, not otherwise disposed of therein, shall be for the use of the regiment, company or troop respectively; that is to say, For procuring and repairing drums, trumpets, colours, banners, halberts, paying of drummers and trumpeters, or other charge of the said company, and the overplus (if any be) to be laid out in arms and ammunition for a town stock; and be recovered by action, bill, plaint or information in any of his Majesty's courts of record in this province.

Commission
officers to make
assessments for
drums, &c.

28. That when and so often as the fines arising in any military company or troop, shall not be sufficient to answer the charge of providing suitable drums, trumpets, colours and banners, and the support of drummers and trumpeters; the commission officers of such company or troop respectively, are hereby authorized and empowered to assess so much as shall be wanting and necessary for that use and occasion, upon their company or troop, and to

proportion the same in the most equal manner they may, upon all the persons entred in the roll of such company or troop, and liable to attend any military duty in the same, having due regard unto persons ability for estate and other circumstances; and where there be sons or servants, their parents or masters to pay for them, if they cannot do it themselves; and the assessments so made being signed by the commission officers, shall be committed to the clerk of such company or troop, together with a warrant from the chief officer of the same, requiring the said clerk to collect and pay in the same unto himself, to be employed and disposed to the use aforesaid; and to make distress of all persons that shall neglect or refuse to pay their proportion thereof. And such clerk is hereby impowered and required to execute such warrant accordingly, and to pay in the said monies unto his chief officer. And if any fail in their betrusement and duty aforesaid, they shall be liable to give account to their superior officers from time to time.

AN ACT PRESCRIBING FORMS OF WRITS IN CIVIL CAUSES.

Pass'd 4th of
Geo. 1.

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That all civil Actions, other than such as are cognizable before a justice of the peace, shall be originally heard and tried in an inferior court of common pleas, (except in Suits where the King is concerned) which may be brought in any of his Majesty's courts within this province, at the pleasure of the prosecutor. And the proper original process of summons, capias, or attachment; and the writ of execution in civil actions betwixt party and party, shall be made out in the forms following: That is to say,

Capias or Attachment.

Province of New-Hampshire.	} . George, ——— by the grace of God of Great-Britain, France and Ireland, King, defender of the faith, &c.

To the sheriff of our province of New-Hampshire, his under-sheriff, or deputy, *Greeting.*

We command you to attach the goods or estate of *A. B.* of *P.* within our province of New-Hampshire ——— Addition. ——— to the value of ——— pounds; and for want thereof to take the body of the said *A. B.* (if he may be found within your precinct) and him safely keep, so that you have him before our justices of our ——— court of ——— next to be holden at *P.* within and for our said province of New-Hampshire, on the first Tuesday in ——— then and there in our said court to answer unto *C. D.* of

H. within our province of ——— Addition. ——— in a plea of ——— To the damage of the said *C. D.* as he saith, the sum of ——— pounds, which shall then and there be made to appear, with other due damages, and have you there this writ, with your doings therein. Witness *R. W.* Esq; at *P.* the ——— day of ——— in the ——— year of our reign. *Annoque Domini*
R. G. Clerk.

Writ of Summons.

Province of } George, ——— by the Grace of God of
 New-Hampshire. } Great-Britain, France and Ireland, King, de-
 fender of the faith, &c.

To the sheriff of our province of New-Hampshire, his under-sheriff, or deputy, *Greeting.*

We command you, that you summon *A. B.* of *C.* ——— Addition: ——— (if he may be found in your precinct) to appear before our justices of our ——— court of ——— to be holden at *P.* within and for our said province of New-Hampshire, on the first Tuesday of ——— then and there in our said court to answer to *H. G.* of *S.* within our province of New-Hampshire aforesaid ——— Addition. ——— in a plea of ——— To the damage of the said *H. G.* as he saith, the sum of ——— pounds, which shall then and there be made to appear, with other due damages; and have you there this writ, with your doings therein. Witness *R. W.* Esq; at *P.* the ——— day of ——— in the ——— year of our reign. *Annoque Domini*

R. G. Clerk.

Summons when Goods are attached.

Province of } George, ——— by the Grace of God of
 New Hampshire. } Great-Britain, France, and Ireland, King, de-
 fender of the faith, &c.

To *A. B.* of *P.* within our province of New-Hampshire ——— Addition. ——— *Greeting.*

We command you, that you appear at our next ——— court of ——— to be holden at *P.* within our province of New-Hampshire aforesaid, on the first Tuesday in ——— then and there to answer to *P. Q.* of *R.* within our province of New-Hampshire ——— Addition. ——— in a plea of ——— which plea the said *P. Q.* hath commenced against you, to be heard and tried at the said court, and your goods or estate are attached to the value of ——— pounds, for security to satisfy the judgment, which the said *P. Q.* may recover upon the aforesaid trial. Fail not of appearance at your peril. Witness *R. W.* Esq; at *P.* the ——— day of ——— in the ——— year of our reign. *Annoque Domini*

R. G. Clerk.

Execution.

Province of } George, ——— by the Grace of God of
 New-Hampshire. } Great-Britain, France and Ireland, King, de-
 } fender of the faith, &c.

To the sheriff of our province of New-Hampshire, his under-sheriff, or deputy, *Greeting.*

Whereas *R. Y. of K.* within our province of New-Hampshire, ——— Addition. ——— by the consideration of our justices of our ——— court of ——— holden at *P.* for and within our province of New-Hampshire aforesaid, on the ——— day of ——— last past recovered judgment against *D. H. of B.* in the province of New-Hampshire aforesaid ——— Addition. ——— for the sum of ——— pounds, ——— shillings and ——— pence, debt, or damages, and ——— pounds, ——— shillings, ——— pence, cost of suit, as to us appears of record; whereof execution remains to be done: We command you therefore, that of the goods, chattels, or lands of the said *D. H.* (within your precinct) you cause to be paid and satisfied unto the said *R. Y.* at the value thereof in money, the aforesaid sums, being ——— pounds, ——— shillings, and ——— pence in the whole, with two shillings more for this writ; and thereof also to satisfy yourself for your own fees; and for want of goods, chattels, or lands of the said *D. H.* to be by him shewn unto you, or found within your precinct, to the acceptance of the said *R. Y.* to satisfy the sums aforesaid; we command you to take the body of the said *D. H.* and him commit unto our goal in *P.* in our province of New-Hampshire aforesaid; and detain in your custody within our said goal, until he pay the full sums above-mentioned, with your fees, or that he be discharged by the said *R. Y.* the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said court of ——— to be holden at *P.* within our province of New-Hampshire aforesaid, upon the the first Tuesday of ——— next. Witness *R. W. Esq;* at *P.* the ——— day of ——— in the ——— year of our reign. *Annoque Domini*

R. G. Clerk.

And be it further Enacted by the Authority aforesaid, That all processes and writs, as well original as judicial, issuing out of the clerk's office of the superiour court of judicature, shall bear test of the chief justice; and upon any vacancy of such chief justice, then of the senior justice of the said court, for the time being. And all original or judicial processes, or writs issuing out of the clerk's office of the inferior court of common pleas, shall bear test of the first justice named in the commission for holding such court; and upon any vacancy, by his death or removal, then of the justice next named in the said commission, for the time being.

And be it Enacted by the Authority aforesaid, That the writ for putting such into possession of any lands or tenements as shall recover judgment for the same, and for levying the cost and

damages recovered upon such suit, commonly called a writ of *facias habere possessionem*, and writs of *feri facias*, as also the writ of *scire facias* to be issued out of the superior or inferior court respectively; and the writ of replevin, shall be from time to time granted and issued in the form following: That is to say;

Writ of Facias habere Possessionem, and Fieri Facias.

Province of New-Hampshire.	}	George, Britain, France and Ireland, King, defender of the faith, &c.	by the grace of God of Great-
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To the sheriff of our said province of New-Hampshire, his under-sheriff, or deputy, *Greeting.*

Whereas *A. B. of C.* ——— Addition. ——— before our justices of our ——— court of ——— holden at *P.* within and for our province of New-Hampshire aforesaid, upon the ——— day of ——— by the consideration of our said court, recovered judgment for, and title and possession of and in a certain messuage or tenement with the appurtenances, or ——— acres of land ——— lying and being in the town of *C.* against *D. H. of G.* ——— Addition. ——— who had unjustly withheld, put out or amoved the said *A. B.* from his possession thereof; and also at the said court recovered judgment for ——— pounds, ——— shillings and ——— pence, for cost and damages, which he sustained by reason of the same, as to us hath been made to appear of record. We command you therefore that without delay you cause the said *A. B.* to have possession of and in the said messuage or tenement; or said ——— acres of land, &c. We also command you that of the goods, chattels, or lands of the said *D. H.* within your precinct, at the value thereof in money, you cause the said *A. B.* to be paid and satisfied the aforesaid sum of ——— pounds, ——— shillings and ——— pence, which to the said *A. B.* was adjudged, for his cost and damage; and two shillings more for this writ; and thereof also to satisfy yourself for your own fees. And for want of such goods, chattels or lands of the said *D. H.* to be by him shewn unto you, or found within your precinct, to the acceptance of the said *A. B.* to satisfy the aforesaid sums; we command you to take the body of the said *D. H.* and him commit to our goal in *P.* in our province of New-Hampshire aforesaid, and detain in your custody within our said goal, until he pay the full sum above-mentioned, with your fees, or that he be discharged by the said *A. B.* or other ways by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said court of ——— to be holden at *P.* upon the ——— day of ——— next. Witness *R. W. Esq;* at *P.* the ——— day of ——— in the ——— year of our reign. *Annoque Domini*

R. G. Clerk.

Writ of Scire Facias.

Province of } George, by the grace of God of
New-Hampshire. } Great-Britain, France and Ireland, King, de-
fender of the faith, &c.

To the sheriff of our said province of New-Hampshire, his under-sheriff, or deputy, *Greeting.*

Whereas *A. B.* of *P.* ——— Addition. ——— before our justices of our ——— court of ——— holden for and within our said province of New-Hampshire, at *P.* on the ——— day of ——— in the ——— year of our reign, by the consideration of our said justices, recovered against *C. D.* of *E.* ——— Addition. ——— the sum of ——— pounds, ——— shillings and ——— pence, debt or damages, and also ——— pounds, ——— shillings and ——— pence cost and charges by him about his suit in that behalf expended, whereof the said *A. B.* is convict, as to us appears of record; and altho' judgment be thereof rendered, yet the execution for the said debt or damage, and cost doth yet remain to be made; whereof the said *A. B.* hath supplicated us to provide remedy for him in that behalf: Now, to the end that justice may be done, we command you that you make known to the said *C. D.* that he be before our justices of our said ——— court of ——— to be holden for and within our said province of New-Hampshire at *P.* on the first Tuesday of ——— to shew cause, if any he have, wherefore the said *A. B.* ought not to have his execution against him the said *C. D.* for his debt, or damage and cost aforesaid; and further to do and receive that which our said court shall then consider; and have there then this writ with your doings therein. Hereof fail not. Witness *R. W.* Esq; at *P.* the ——— day of ——— in the ——— year of our reign. *Annoque Domini*
R. G. Clerk.

Writ of Replevin.

Province of } To the sheriff of our said province of New-
New-Hampshire. } Hampshire, his under-sheriff or deputy, or con-
stables of the town of *P.* within the said prov-
ince, or to any or either of them, *Greeting.*

We command you to replevie ——— belonging unto *T. P.* of *P.* ——— Addition. ——— now distrained or impounded by *J. G.* of *P.* ——— Addition. ——— and deliver the said ——— unto the said *T. P.* ——— and summons the said *J. G.* to appear before our justices of our inferior court of common pleas next to be holden at *P.* within and for our province of New-Hampshire aforesaid on the ——— day of ——— then and there in our said court to answer to the said *T. P.* in a plea of replevin, for that the said *J. G.* he on the ——— day of ——— at a place called *A.* in *P.* aforesaid took ——— of the plaintiffs, and drove them away and impounded them in ——— and in the said pound them unjustly

detained, against pledges and sureties till this day. Which is to the damage of the said *T. P.* (as he saith) the sum of ——— pounds, as shall then and there appear with other due damages: Provided he the said *T. P.* give bond to the value of ——— pounds, with sufficient surety or sureties to prosecute his replevin at the said inferior court of common pleas, and so from court to court until the cause be ended, and to pay such costs and damages as the said *J. G.* shall recover against him. Hereof fail not, and make true return of this writ, with your doings therein, unto the said court. Dated in *P.* the ——— day of ——— in the ——— year of his Majesty's reign. *Annoque Domini,*

R. G. Clerk.

And the like form of *scire facias* and *replevin* to be observed for matters cognizable before a justice of peace, *mutatis mutandis.*

And be it further Enacted by the Authority aforesaid, That the several forms of writs and processes here under-written, shall be and hereby are established to be the forms to be granted and used in civil causes, triable before a justice of the peace: That is to say,

Summons for Appearance.

Province of New-Hampshire.	}	To the sheriff of the said province of New-Hampshire, his under-sheriff, or deputy, or to either of the constables of the town of <i>P.</i> <i>Greeting.</i>
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In His Majesty's name you are required to summon and give notice unto *S. H.* of *P.* aforesaid ——— Addition. ——— (if he may be found in your precinct) that he appear before me *T. P.* Esq; one of his Majesty's justices of the peace for the province aforesaid, at ——— in *P.* the ——— day of ——— at ——— of the clock in the ——— noon: Then and there to answer to ——— *R. W.* of *K.* ——— Addition. ——— in a plea of ——— to the damage of *R. W.* (as he saith) the sum of ——— shillings; as shall then and there appear with other due damages. You are also hereby further required to signify unto the said *S. H.* that he may not fail in the premises, as he will answer the contempt at the peril of the law in this case made and provided: and of your doings herein, you are to make a true return unto myself at or before the said ——— day of ——— Dated at *P.* aforesaid the ——— day of ——— in the ——— year of his Majesty's reign.
Annoque Domini, *T. P.*

Warrant for Contempt.

Province of New-Hampshire.	}	To the sheriff of the province of New-Hampshire, his under-sheriff or deputy, or to either of the constables of the town of <i>P.</i> <i>Greeting.</i>
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Whereas *S. H.* of *P.* aforesaid ——— Addition. ——— was served with summons granted by *T. P.* Esq; one of his Majesty's

justices of the peace for the province aforesaid, for his appearance before me on — the — day of — to answer to *R. W. of K.* — Addition. — in a plea of — And whereas the said *S. H.* hath made default in his appearance; these are therefore in his Majesty's name to will and require you to take the body of the said *S. H.* (if he may be found in your precinct) and him safely keep, so that he may be had before me the said *T. P.* at *P.* on — the — day of — at — of the clock in the — noon, as well to answer the said *R. W.* of his plea aforesaid, as for his said contempt: And make a true return of this writ, with your doings therein, unto myself at or before the said — day of — Dated at *P.* aforesaid the — day of — in the — year of his Majesty's reign.
Annoque Domini, *T. P.*

Capias or Attachment.

Province of } To the sheriff of the province of New-Hamp-
 New-Hampshire. } shire, his under-sheriff, or deputy, or to either
 of the constables of *P.* *Greeting.*

In His Majesty's name you are required to attach the goods or estate of *A. B.* of *P.* aforesaid — Addition. — to the value of — shillings, and for want thereof to take the body of the said *A. B.* (if he may be found in your precinct) and him safely keep, so that he may be had before me *S. P. Esq*; one his Majesty's justices of the peace for the province aforesaid at *P.* on — the — day of — at — of the clock in the — noon; then and there to answer to *E. F. of M.* — Addition. — in a plea of — To the damage of the said *E. F.* (as he saith) the sum of — shillings, as shall then and there appear, with other due damages. Hereof fail not, and make due return of this writ, and of your doings therein, unto myself, at or before the said — day of — Dated at *P.* aforesaid, the — day of — in the — year of his Majesty's reign. *Annoque Domini,* *S. P.*

Smmmons when Goods are Attached.

Province of } To *A. B.* of *P.* in the province of New-
 New-Hampshire. } Hampshire — Addition. — *Greeting.*

In His Majesty's name you are required to appear before me *S. P. Esq*; one of his Majesty's justices of the peace for the province aforesaid at — *P.* on — the — day of — at — clock in the — noon, to answer unto *E. F. of M.* — Addition. — in a plea of — which plea the said *E. F.* has commenced, to be heard and determined before me, and your goods or estate are attached to the value of — shillings for security to satisfy the judgment which the said *E. F.* may recover upon the aforesaid trial. Fail not of appearance at your peril. Dated at *P.* aforesaid, the — day of — in the — year of his Majesty's reign. *Annoque Domini,* *S. P.*

Execution or Warrant of Distress.

Province of } George, ——— by the grace of God of Great-
 New-Hampshire. } Britain, France and Ireland, King, defender of
 the faith, &c.

To the sheriff of our said province of New-Hampshire, his under-sheriff or deputy, or to either of the constables of the town of *P.* within our said province, *Greeting.*

Whereas *A. B.* of *P.* ——— Addition. ——— on the ——— day of ——— before *S. P.* Esq; one of our justices of the peace for our province aforesaid, recovered judgment against *C. D.* of *H.* ——— Addition. ——— for the sum of ——— shillings and ——— pence debt or damage, and ——— shillings and ——— pence for charge of suit, as to us appears of record; whereof execution remains to be done. We command you therefore that of the money of the said *C. D.* or of his goods, or chattels, (within your precinct) at the value thereof in money, you cause to be levied, paid, and satisfied unto the said *A. B.* the aforesaid sums, being ——— pounds ——— shillings and ——— pence in the whole: And also that out of the money, goods, or chattels of the said *C. D.* you levy two shillings more for this writ, together with your own fees: And for want of such money, goods, or chattels of the said *C. D.* to be by him shewn unto you or found within your precinct, to the acceptance of the said *A. B.* for satisfying the aforesaid sums; we command you to take the body of the said *C. D.* and him commit unto our goal in *H.* And we command the keeper thereof accordingly to receive the said *C. D.* into our said goal, and him safely to keep, until he pay the full sums above-mentioned, with your fees; or that he be discharged by the said *A. B.* the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said justice within sixty days next coming. Witness our said justice at *P.* the ——— day of ——— in the ——— year of our reign. *Annoque Domini,* *S. P.*

And be it further Enacted by the Authority aforesaid, That in case the defendant in any suit being duly served with a *capias* or attachment, and return thereof do not appear by himself or his attorney, judgment shall be entred up against him by default.

And be it further Enacted by the Authority aforesaid, That when the officer appointed for collecting any rates or assessments by virtue of a legal warrant to him directed, shall seize the body of any person or persons for want of goods or chattels whereof to make distress, and shall commit him or them to prison, he shall give an attested copy of his warrant unto the keeper of the prison, and thereupon certify under his hand the sum or sums such person or persons are to pay as their proportion to the assessment; and that for want of goods or chattels whereon to make distress, he hath seized his or their bodies: And such attested copy with the certificate thereon under the hand of the officer shall be a

When the constable commits any person to prison for not paying his rates, he shall leave a copy of his warrant with the goal keeper.

sufficient warrant to require the prison keeper to receive and hold such person or persons in custody, until he or they shall pay their rates or assessments, as aforesaid, and charges of imprisonment, with one shilling for a copy of the warrant, and all other legal cost thereby arising.

AN ACT RELATING TO SURETIES UPON MEAN PROCESS IN CIVIL ACTIONS. Pass'd the 4th of Geo. 1.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That where bail is given upon mean process, in any civil action, not only for the appearance of the party to answer the suit, but also to abide the order or judgment of the court that shall be given thereon; every such surety or sureties shall be obliged to satisfy the judgment, in case of the principals avoidance, and the return of *non est inventus*, upon the execution; unless the surety at the time of entering up judgment do bring the principal into court, and move to be discharged, upon which the court shall order the keeper of the prison to receive him into custody, that so his body may be taken in execution; and the party for whom the judgment was given, may have a writ of *scire facias*, out of the same court against such surety or sureties, with the additional costs of suit, and execution shall be accordingly granted.

Surety to satisfy the judgment obtained against the principal in case of his avoidance.

A saving.

Always provided, That such writ of *scire facias* be taken out and served upon the surety within twelve months after final judgment on the principal action, and not afterwards; and every surety of whom such recovery is made, may bring his action for damages against the principal debtor.

Writ of *scire facias* to be served on the surety within a year.

And it shall be lawful for the surety or sureties at any time or times before the judgment given in such case against such surety or sureties, upon a writ of *scire facias* brought, to bring the principal into court, and move to be discharged; and the court upon such motion made, shall order the principal to be taken into custody of the sheriff, who shall detain him by the space of thirty days, that so the creditor by that time may take his body in execution, if he think fit. And in case he be not served with execution before the expiration of the said thirty days, the sheriff at the end thereof shall release him upon the payment of his prison fees and charges. And the sureties from and after the rendering the principal in court as aforesaid, and paying to the creditor the cost he hath been at for bringing forward his suit by *scire facias*, (to be adjusted in court) shall be discharged from their suretiship in like manner as if they had rendered the principal in court, at the time of entering up the judgment, as is before provided: Any law, usage, or custom to the contrary notwithstanding.

Surety may bring in the principal, after *scire facias* is served.

To be detained 30 days.

Then to be released.

Surety to be discharged.

And for the more equal and impartial administration of justice;
Be it Declared and Enacted, That no justice of the superior

No justice to be judge or attorney, where he

hath heard a
case as a justice.

court of judicature, or of the inferior court of common pleas within this province, shall have a voice in judging or determining of any civil action which hath before been heard and determined by him singly, as a justice of peace, and judgment appealed from, nor shall he be admitted an attorney to plead or defend any such cause. And the same rule to be observed with respect to any other case by any judge determined, or who shall have sat in judgment therein.

Pass'd the 4th
of Geo. 1.

AN ACT TO PREVENT CAUSELESS ARRESTS, &c.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Writ to be en-
dorsed by the
party taking the
same out.

That every person, principal, or attorney, executor or administrator taking out a writ of summons or attachment against another, before it shall be served shall endorse his surname on the back thereof towards the bottom, and shall stand chargeable, and be liable to answer and pay to the adverse party his cost lawfully arising on the action or suit, and charge of imprisonment, if any be, to be taxed in common form against the plaintiff by the judges of the court where the writ is returnable in case of non-prosecution, discontinuance, or that he be non-suit, or judgment pass against him, to be levied on the principal, the executor or administrator that endorsed or took out such writ, and if the principal be without the province, or be unable to pay the same, then (on a *scire facias* to be bro't for that purpose) against the attorney who endorsed such writ.

No person to
entertain more
than two attor-
nies.

And no person shall entertain more than two of the sworn attorneys at law, that the adverse party may have liberty to retain others of them to assist him, upon his tender of the established fee, which they may not refuse.

Attorney to
draw a new writ,
without a fee, in
case.

And be it further Enacted by the Authority aforesaid, That if the plaintiff in any action suffer a non-suit, through the default, negligence or omission of his attorney that drew the writ, being an attorney at law, practising and legally admitted in the courts of law within this province, by mislaying of the action, or otherwise, such attorney shall draw a new writ without a fee, in case the plaintiff see cause to revive his suit.

Pass'd the 4th of
Geo. 1.

AN ACT RELATING TO THE OFFICE AND DUTY OF A CORONER.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Coroner to take
inquests of dead
bodies.

That the coroner which is, or hereafter may be appointed for this province, shall be and hereby is impowered to take inquests

of felonies, and other violent and casual deaths committed or happening within this province.

And before he undertake the execution of the said office he shall take the following oath, for his due and faithful performance thereof, before the Governor, Lieutenant Governor, or any two or more of the Council, or such other person or persons as shall be thereto appointed by the Governor. That is to say ;

To be sworn.

You swear, that well and truly you shall serve our sovereign lord the King in the office of a coroner, and as his Majesty's coroner of this province, and therein you shall diligently do and accomplish all and every thing and things appertaining to your office after the best of your cunning, wit, and power, for the profit and good of the inhabitants within the said province, taking such fees as you ought to take by law, and not otherwise. So help you God.

Coroner's oath.

And be it furthermore Enacted by the Authority aforesaid, That when and so soon as any coroner shall be certified of the dead body of any person supposed to have come to a violent and untimely death, found or lying within this province, he shall make out his warrant directed unto the constables of the same town where such dead body lyes ; or of three or four of the next adjacent towns (if need be) requiring them forthwith to summon a jury of good and lawful men of the town, or such number as shall be sufficient with those sent for from the neighboring towns to make up eighteen in all, to appear before him at the time and place in the said warrant exprest, which warrant shall be made in this form, viz.

Coroner to make out warrant for jurors.

Province of } To the constables of *P.* or to any or either
New-Hampshire. } of them. *Greeting.*

Form of a warrant.

These are in his Majesty's name to require you immediately upon the receipt and sight hereof to summon and warn ——— good and lawful men of the said town to be and appear before me the coroner of the said province of New-Hampshire, at ——— House or place ——— within the said town of *P.* ——— betwixt the hours of ——— and ——— of the clock, in the ——— noon of this present day, then and there to enquire upon the view of a body of a certain person there lying dead, how and in what manner he came to his death. Fail not herein at your peril, as you will answer the contrary. Given under my hand and seal at *P.* the ——— day of ——— in the year of our Lord ——— and in the ——— year of his Majesty's reign.

By me *W. G.* coroner of
New-Hampshire.

And every constable to whom any such warrant shall come, shall forthwith execute the same, and repair unto the place at the time therein mentioned, and make return of the warrant, with his doings therein, unto the coroner that granted the same: And every constable failing of performing his duty by such warrant required of him, or returning the same, as aforesaid, shall forfeit

Constables to execute the coroners warrants.

Penalty for default.

Jurors default. the sum of forty shillings. Also every person summoned and warned to be a juror, failing to appear accordingly, shall also forfeit the sum of forty shillings, without a reasonable excuse for the same be made unto, and allowed of by the coroner. The afore-

Fines how to be applied. said several fines and forfeitures to be to and for the defraying of the charges arising and happening within this province, and towards the defraying the necessary charges of the coroner and jurors; to be recovered by action, bill, plaint, or information therefore to be brought by the coroner, in any of his Majesty's courts of record.

And the coroner shall swear fourteen or more of the jurors that appear, and give the foreman (to be by him appointed) his oath, upon view of the body, in this form; that is to say,

Jurors oath. You shall diligently enquire, and due presentment make on the behalf of our sovereign lord the King, how and in what manner *A. B.* here lying dead, came to his death; and you shall deliver up to me his Majesty's coroner a true verdict thereof, according to such evidence as shall be given to you, and according to your knowledge. So help you God.

And then shall swear the rest of the jurors by three or four at once, in this form, viz.

All such oath as *T. M.* the foreman of this inquest, for his part hath taken, you and every one of you shall well and truly observe and keep on your parts. So help you God.

Coroners charge to the Jury.

The jury being sworn, the coroner shall give them a charge upon their oaths to declare of the death of the person, whether he died of felony, or by mischance and accident? and if of felony, whether of his own or another's? and if by mischance or misfortune, whether by the act of God or man? and if he died of felony, who were principals, and who were accessories? who threatened him of his life, or members, with what instrument he was struck or wounded; and so of all prevailing circumstances that can come by presumption.

And if by mischance or accident by the act of God or man, whether by hurt, fall, stroke, drowning, or otherwise, to enquire after the persons that were present, the finders of the body, his relations or neighbours, whether he was kill'd in the same place or else-where? and if else-where, by whom, and how he was thence brought; and of all other circumstances.

And if he died of his own felony, then to enquire of the manner, means or instruments, and circumstances concurring.

Proclamation to be made.

After the jury being charged, they must stand together, and let proclamation be made for any that can give evidence, to draw near, and they shall be heard.

Warrant to be sent out for witnesses.

And every coroner is hereby further impowered to send out his warrant for witnesses, commanding them to come to be examined before him, and to declare their knowledge concerning the matter in question; and to administer an oath unto the witnesses in this form; that is to say,

Witnesses oath.

All such evidence as you shall give to this inquest, concerning the death of *A. B.* here lying dead, shall be the truth, the whole truth, and nothing but the truth. So help you God.

The examination of such witnesses to be taken in writing under their hands. And if they relate to the trial of any person concerning the death of the party found dead, then shall the coroner bind over such witnesses by recognisance, in a reasonable sum, not less than twenty pounds a piece, personally to appear at the next assizes, or court of oyer and terminer and goal delivery, to be holden within this province; then and there to testify their knowledge concerning the death of the said *A. B.*

To be bound
over.

And the jury having viewed the body, heard the evidence, and made what enquiry they can into the manner and causes of the death of the person, they shall draw up and deliver unto the coroner, their verdict there-upon in writing, under their seals, in manner following; which shall pass by indenture interchangeably betwixt the coroner and the jury: That is to say,

Province of } An inquisition indented, taken at *P.* within
New-Hampshire. } the said province of New-Hampshire, the ——— day of ——— in the ——— year of the reign of our sovereign lord ——— by the grace of God, of Great-Britain, France and Ireland, king, defender of the faith, &c. before *T. F.* gent. coroner of our said lord the king within the province aforesaid; upon view of the body of *A. B.* aforesaid ——— then and there being dead, by the oaths of *F. W. B. W. H. P. T. A. S. B. F. K. L. S. F. H. R. G. P. D. C. M. S. O. G. B.* and *N. S.* good and lawful men of *P.* aforesaid ——— within the province aforesaid; who being charged and sworn to enquire for our said lord the king, when, and by what means, and how the said *A. B.* came to his death. Upon their oaths do say, &c.

Inquisition.

Then insert, how, where, at what time, by what means, with what instrument, and in what manner, the party was kill'd or came by his death.

And if it appear the person to have been killed and murdered by another that is known, the inquisition must be concluded after this manner, viz.

And so the jurors aforesaid, upon their oaths aforesaid, say, that the afore-mentioned *A. K.* ——— in manner and form aforesaid *A. B.* ——— then and there feloniously did kill and murder against the peace of our sovereign lord the king, his crown and dignity.

If it appear to be self-murder, the inquisition must conclude after this manner, viz.

And so the jurors aforesaid, say upon their oaths, that the said *A. B.* in manner and form aforesaid, then and there voluntarily and feloniously, as a felon of himself, did kill and murder himself, against the peace of our sovereign lord the king, his crown and dignity.

If it appear the person to be slain by misfortune, the inquisition must conclude after this manner, viz.

And so the jurors aforesaid say upon their oaths, that the aforesaid *A. B.* in manner and form aforesaid was killed and came to his death by misfortune.

If by the hands or means of any other person, thus, viz.

The aforesaid *T. H.* the aforesaid *A. B.* by misfortune and con-

trary to his will in manner and form aforesaid, did kill and slay. In witness whereof, as well I the coroner aforesaid, as the jurors aforesaid, to this inquisition have interchangeably put to our hands and seals, the day and year abovesaid.

And the coroner shall make return of all such inquisitions taken before him, unto the justices of assize, oyer and terminer, and goal delivery.

Also upon any verdict found of the death of a person by the felony or misfortune of another, shall speedily inform one or more of the next justices of the peace thereof, to the intent that such person killing or being any ways instrumental to the death of another, may be apprehended, examined and secured in order to a trial.

Fee.

And be it further Enacted by the Authority aforesaid, That over and above the fee already allowed by law, the coroner shall be allowed the sum of ten shillings per diem for his travel and expences upon every inquisition by him taken; and every juror attending the said service, shall be allowed two shillings per diem; which allowances shall be paid out of the estate of the dead person, or by the parent or master, where any apprentice or child under age shall happen to be killed: And in want thereof to be paid by the treasurer of this province, upon representation thereof made by the coroner to the quarter sessions.

Coroners to serve writs.

And the coroner within this province, shall be and hereby is impowered to serve and execute all writs and processes directed unto him against the sheriff of the province; and to return jurors *de talibus circumstantibus*, where need shall be to fill up the jury or juries, in all causes where the sheriff is concerned, or related to either of the parties in any cause. And shall have the like fee for serving writs in civil causes, as is allowed by law unto the sheriff.

Pass'd the 5th of AN ACT PROVIDING, THAT IN SUITS WHERE GOODS OR OTHER
Geo. 1. ESTATE IS ATTACHED, THE DEFENDANT BE SUMMONED.

Preamble.

To the intent that all persons may have due notice to prepare and make their defence in every act and suit commenced against them;

Be it Enacted by His Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

Summons to be left where goods are attached.

That when the goods or estate of any person shall be attached at the suit of another in any civil action, a summons in form of law as is prescribed, shall be delivered to the party whose goods or estate are attached, or left at his or her dwelling-house, or place of last and usual abode, fifteen days before the day of the sitting of the court where such attachment is returnable; and in case the defendant was at no time an inhabitant or sojourner

The time of serving this summons

within this province, then such summons to be left with his or her tenant, agent, or attorney, and the serving of it to be certified by a sworn officer that executed the attachment, or by affidavit made in court by the person that delivered the same, and by one other credible witness then also present, otherwise the writ shall abate.

alter'd by 33d of Geo. 2.

And upon suits brought hither by writ of *scire facias*, or writ of dower, or where the defendant in any suit shall not be served therewith in his own person, an attested copy of the writ, and of the service thereof under the hand of the sheriff or his deputy, that executed the same, shall be left at the house or place of usual abode of the defendant. And in case the defendant was at no time an inhabitant or sojourner within this province, then with his or her tenant, agent, or attorney, as aforesaid, by the like number of days before the day of the court's sitting where such writ is returnable, as is required for the service thereof: And if it be waste or unimproved land, the summons shall be left at any dwelling-house next scituate thereto, with any person of full age inhabiting therein. And in writ of dower a copy thereof with the service alike attested, as before, shall also be left with the tenant or occupant of the house or land whereof dower is demanded, to be rendered, or in or upon the same; and the sheriff or his deputy shall certify the same in his return, or otherwise the writ shall abate.

An attested copy of the writ to be left with attorney, &c. But see the act of 33d of Geo. 2.

See the said act.

And further it is Enacted by the Authority aforesaid, That when it happens the party against whom suit is brought, not to be an inhabitant or sojourner within this province, or to be absent out of the same at the time of commencing such suit, and shall not return before the time for trial, the justices of such court where the suit is brought shall continue the action to the next court, and if the defendant doth not then appear by himself or attorney, and be so remote that the notice of such suit depending could not probably be conveyed to him during the vacancy, the justices at such next court may further continue the action to the court then next following, and no longer: And in such cases where judgment is entered up by default, after two continuances, as aforesaid, execution or writ of seizin shall be stayed, and not issue forth until the plaintiff or demandant shall have given bond, with one or more sufficient sureties, in double the value of the estate, or sum recovered by such judgment to make restitution, and refund and pay back such sum as shall be given in debt or damage, or so much as shall be recovered upon a suit to be bro't for the same within twelve months next after entering up the first judgment, if upon such suit the judgment shall be reversed, annuled, or altered, the security aforesaid to be no further answerable than for the recovery that shall be made upon such suit to be made within twelve months, as aforesaid.

Action to be continued in case.

Execution to be stayed.

Provided, That no real estate taken in execution granted upon such first judgment shall be alienated or past away, until after the expiration of the said twelve months, or after a new trial brought within the said space of twelve months, to the intent that restitution thereof may be made in case as aforesaid.

Land not to be sold within twelve months.

Pass'd the 4th of
Geo. 1.

AN ACT FOR REGULATING WEIGHTS AND MEASURES.

Preamble.

To the end that weights and measures may be one and the same throughout this province :

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Treasurer to provide one set of weights and measures according to Winchester.

Town clerks to provide weights, &c.

To be kept as standards.

His allowance for sealing.

A sealer to be chosen and sworn.

To send out his warrants for the inhabitants to bring in weights, &c.

Penalty for neglect.

That the treasurer of this province shall provide one set of weights and measures as are according to the approved Winchester measures, allowed in England in the exchequer, which shall be publick allowed standards throughout this province for the proving and sealing all weights and measures thereby : And the town-clerk of every town within this province, not already supplied, shall within three months next coming provide at the town charge one bushel, one half bushel, one peck, one ale quart, one wine quart, one ell, one yard, one set of brass weights to four pounds after sixteen ounces to the pound, with fit scales, and steel beam, tried and proved by the aforesaid standard, and sealed by the treasurer or his deputy in his presence ; which shall be kept and used only for standards in the several towns, who is hereby authorized to do the same, for which he shall receive from the town-clerk of every town two pence for every weight and measure so tried, proved and sealed. And the town-clerk of every town shall commit the weights and measures unto the custody of the select-men for their town, for the time being, who with the town-clerk are enjoined to choose an able man for a sealer of all weights and measures for their own town, from time to time, and until another be chosen, who shall be presented to the next court, or some justice of the peace, to be sworn to the faithful discharge of his duty, and shall have power to send forth his warrants by the constables to all the inhabitants of each town, to bring in all such weights and measures as they make any use of, in the month of April, from year to year, at such time and place as he shall appoint, and make return to the sealer in writing of all persons so summoned ; and then and there all such weights and measures may be proved and sealed, with the town seal ; which is likewise to be provided by the town clerk at each town charge, who shall have for every weight and measure so sealed one penny, from the owner thereof at the first sealing. And all such weights and measures as cannot be brought to their just standard, he shall deface and destroy ; And after the first sealing he shall have nothing so long as they continue just with the standard.

And it is further Enacted by the Authority aforesaid, That if any constable, select-men or sealers, do not execute these laws so far as to each and every of them appertains, shall forfeit for every neglect the space of one month, the sum of forty shillings, the half to the informer, the other half to the use of the poor of the town where such default is found : And every person neglecting to bring in their weights and measures at the time and place ap-

pointed, being only warned thereof, shall forfeit three shillings and four pence ; the one half thereof to the use of the poor, as aforesaid, the other half to the sealer : And the penalties herein mentioned to be levied by distress, by warrant from any justice of the peace within this province.

And it is further Enacted by the Authority aforesaid, That in every sea-port town within this province the town-clerk is to provide likewise upon the town charge, one hundred weight made of iron, to be tried, proved and sealed, as aforesaid, and one half hundred, and one quarter of an hundred, and one fourteen pound weight made of iron, to be tried, proved, and sealed, as aforesaid, and to be kept as standards in the said several towns, to be used as before for other weights and measures, as is directed.

In sea-port towns iron weights, &c. to be provided.

And it is further Enacted by the Authority aforesaid, That all stillyards, that are or shall be approved of by the standards shall be allowed of in any of the towns of the said province, and be in the liberty of both buyer and seller to weigh by which they please.

Stillyards proved by the standard to be allowed.

And be it further Enacted by the Authority aforesaid, That all measures by which meal, fruits, and other things, usually sold by heap, shall be sold, be conformable as to bigness to the following dimensions, viz. The bushel not less within-side than eighteen inches and half wide, the half bushel not less than thirteen inches and three quarters wide, the peck not less than ten inches and three quarters wide, and the half peck not less than nine inches wide.

Dimensions of bushel, half bushel, &c.

And if any person at any time from and after the first day of October, next after the publication of this act, shall sell, expose to sale, or offer any meal, fruits, or other things usually sold by heap, by any other measure than is afore-mentioned, as to bigness and breadth, such person being complained of, and convicted before any justice of peace within this province, of so doing, shall forfeit and pay to the use of the poor of the town where the offence is committed, the full value of the meal, fruits, or other things so sold, or offered to sale : And such justice may commit the offender to prison, until payment be made of the said forfeiture, or cause the same to be levied by warrant of distress, and paid in unto the town treasurer, or overseers of the poor, to the use of the poor aforesaid : And shall also cause such measure to be defaced : Any law, usage or custom to the contrary in any wise notwithstanding.

Penalty.

And be it further Enacted by the Authority aforesaid, That the sealer appointed in each town within this province, from time to time, shall be and hereby is impowered to go to the houses of such of the inhabitants, as upon warning given, in manner as is above appointed shall neglect to bring or send in their beams, weights and measures, to be proved and sealed at the place assigned for that purpose, and shall there prove and seal the same, and shall demand and receive of the owner for every beam, weight and measure, proved and sealed, two pence, and no more : And every person that shall refuse to have their beams, weights and measures, viewed, proved and sealed, shall forfeit the sum of five shillings ; one moiety thereof to the use of the poor of the town, and the

Sealer to go to Inhabitants houses.

Penalty on persons refusing to bring their weights to be proved.

other moiety to the sealer, to be recovered as is above provided. And if any person shall bring his beam, weights, or measures to be proved and sealed at any other time than on the day or days set by the sealer for that purpose, he shall in like manner pay two pence for each that shall be tried and sealed.

Penalty on persons using weights, beams or measures not proved.

And be it further Enacted by the Authority aforesaid, That if any person from and after the first day of September next after the publication of this act, shall sell, vend, or utter any goods, wares, merchandizes, grain, or other commodities whatsoever, by other beams, weights, or measures than such as shall be proved and sealed as this act requires; the person so offending shall lose or forfeit the sum of five shillings for each offence of that kind; one moiety thereof to the use of the poor of the town where the offence shall be committed, the other moiety to the sealer or informer, who shall prosecute for the same, to be heard and determined by one or more of his Majesty's justices of the peace.

To be proved once in ten years.

And be it further Enacted by the Authority aforesaid, That all beams, weights, and measures, kept for standards in the several towns, shall be proved, and tried by the public standard at the end of ten years, from time to time; and all town standards shall be stamped with this mark P. N. H. Any law, usage, or custom to the contrary notwithstanding.

Pass'd the 4th of Geo. 1. AN ACT TO ENABLE CREDITORS TO RECEIVE THEIR JUST DEBTS OUT OF THE EFFECTS OF THEIR ABSENT OR ABSCONDING DEBTORS.

Preamble.

For the better preventing of frauds and deceits, too often designed and practiced by ill minded debtors, in betrusting and depositing their goods and effects in the hands of others, with intent to reserve and secure them to their own use, and defeat their creditors of their just due, withdrawing themselves, or absconding, or not being inhabitants within this province, and their goods and effects concealed, so as they cannot be attached, or made liable to the payment of their creditors, by the ordinary process of law,

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

Goods, &c. of an absconding debtor may be attached in whose hands soever.

That it shall and may be lawful to and for any creditor to cause the goods or effects of his absent or absconding debtor, not residing within this province, to be attached, in whose hands or possession soever the same are and may be found: And the attaching of any part thereof, shall secure and make the whole that is in such persons hands liable in the law to respond the judgment to be recovered upon such process, if so much there be, and no further, and shall be subjected to be taken in execution for satisfaction thereof, or so far as the value thereof will extend; and the person in whose hands they are, shall expose them accordingly.

And be it further Enacted by the Authority aforesaid, That where no goods, effects, or credits of an absent or absconding debtor, in the hands of his attorney, factor, agent or trustee, shall be exposed to view, or can be come at so as to be attached ; it shall and may be lawful to and for any creditor to file a declaration against his absent or absconding debtor, in the clerk's office of the inferior court of common pleas in this province, therein particularly setting forth his debt and demand, how and for what cause it arises, and to cause the attorney, factor, agent, or trustee of such absent or absconding debtor to be served with a summons out of the office, annexed to a like declaration, fourteen days before the setting of the court, for his appearance at such court ; which being duly served, and return thereof made under the officers hands, shall be sufficient in the law to bring forward a trial without other or further summons ; unless the debtor be an inhabitant, or hath for some time had his residence within this province ; in which case a like summons with an attested copy of the declaration annexed, shall also be left at his dwelling-house, lodging, or place of his last and usual abode. And such attorney, factor, agent, or trustee, upon his desire, shall be admitted to defend the suit, on behalf of his principal, throughout the course of the law ; and an imparlance shall be granted of course at three courts successively, that he may have opportunity to notify his principal thereof ; and at the fourth term without special matter alledged, and allowed in bar, abatement, or further continuance, the case shall peremptorily come to trial : And if judgment be rendered for the plaintiff, all the goods, effects, or credits of the debtors, which are in the hands of such attorney, factor, agent, or trustee, to the value of such judgment, if so much there be, shall be liable and subjected to the execution granted upon such judgment, for or towards satisfying of the same, and from the time of serving the summons as aforesaid, shall be liable and secured in the law in his hands to answer the same, and may not be otherwise disposed of or converted.

Where no goods can be come at, a declaration to be filed, and summons issued.

Attorney to be admitted defendant. Three imparlances.

Goods to be subjected to execution upon judgment recovered.

And in case any attorney, factor, agent, or trustee, from and after the time of his being served with summons, and declaration, as aforesaid, against his principal, being an absent or absconding debtor, shall transfer, remit, dispose of or convert any of the goods, effects, or credits of such debtor in his hands at the time of such service, so that there shall not be sufficient to satisfy the judgment, the debt being afterwards ascertained by judgment of court given for the same, or that shall not discover, expose, and subject the goods and credits of the debtors in his hands to be taken in execution, for or towards the satisfaction of the judgment, so far as what is in his hands will extend, shall be liable to satisfy the same of his own proper goods and estate, and as of his own debt.

Goods in hand at the time of serving the summons not to be transferred, &c.

And a writ of *scire facias* may be taken out of the same court, and served upon him as the law directs, to appear, and shew cause, if any he have, to the contrary thereof, where, upon default of appearance, or refusal to disclose upon his oath ; which oath the justices of such court are impowered to administer, what goods, effects, or credits of the debtor are in his hands, and to what

Scire facias.

Oath to be given.

Judgment *de bonis propriis*. value, and to expose and subject the same to the execution granted upon the principal judgment, if any goods, effects, or credits be in his hands, then judgment shall be entered up against him of his own proper goods, and estate, and execution be awarded accordingly.

Costs to be awarded for the defendant, in case.

Provided nevertheless, That if the person so summoned, as aforesaid, had or have not, any goods, effects, or credits of the debtor in his hands, nor any ways remitted, disposed of, or converted the same from and after the serving of the first summons, the party who commenced the suit, shall pay and satisfy the reasonable cost and charge occasioned to such person, to be taxed in common form, by the justices of the said court.

Discharge for what shall be recovered.

And be it further Enacted by the Authority aforesaid, That the goods, effects, or credits of any absent debtor so taken, as aforesaid, by process, and judgment of law, out of the hands of his attorney, factor, agent, or trustee, by any of his creditors, shall fully acquit and forever discharge such attorney, factor, agent, or trustee, his executors, or administrators, of, from and against all actions and suits, damages, payments, and demands whatsoever, to be asked, commenced, had, claimed, or brought by his principal, his executors or administrators of and for the same. And if any attorney, factor, agent, or trustee, shall be molested, troubled, or sued by his principal, for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence: Any law, usage or custom to the contrary notwithstanding.

Pass'd the 5th of Geo. 1. AN ACT FOR PRESERVING OF HIGH-WAYS, AND FOR MAKING SUCH OTHERS AS MAY BE NEEDFUL.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

High ways to be maintained at the former breadth.

That all the high-ways throughout this province shall be maintained at the same breadth which heretofore hath been ordered; and if any person or persons shall encroach thereon by fencing, laying wood, digging of pits, throwing gravel, or any rubbish on the same, or any other incumbrance whatever, to the damage or danger of any person or persons, upon complaint to any justice or justices of the peace for this province, the said justice is hereby empowered to send for the person or persons so complained of forthwith, and upon due proof thereof before two justices of the peace, *unus quorum*, shall cause the incumbrance to be removed, at the offenders cost, and to be levied by distress on his goods by the said justices warrant, and bind the offender to the quarter sessions, who shall impose a fine upon him; unless upon a due hearing of the complaint before that court, which shall be allowed him, if he crave it, he justify or vindicate himself, and the complainer shall be duly notified to prosecute his complaint at the same, by a summons under the hand and seal of the clerk of that court.

Incumbrances to be removed.

And be it further Enacted by the Authority aforesaid, That at any time hereafter when there shall be occasion of any new high-ways to be laid out in any of the towns within this province, the select-men of such town, or ten or more petitioners, making application to the court of quarter sessions, showing the necessity and conveniency of the same, the quarter sessions are hereby empowered to appoint a meet committee to lay out such high-ways as may be most convenient and safe for travellers, and to order that due satisfaction be given by the town through which such high-ways lye, to the party through whose lands such high-ways shall be laid; and if any such person be not satisfied and contented with such sum of money, or consideration made them, upon their address to the court of quarter sessions, they shall hear and determine according to right and justice.

New high ways
to be laid out.

And it is hereby further Enacted by the Authority aforesaid, That the select-men of each town within this province, are hereby empowered either by themselves or a committee appointed by them, to lay out particular and private high-ways, for such town only as shall be thought necessary, making due satisfaction for the same to the owners or proprietors of the lands through which such ways shall go; but if such owners or proprietors shall not be satisfied with what the select-men offer by way of recompence for their damage, they have liberty of making application to the court of quarter sessions, who are hereby empowered to make enquiry by a jury of twelve men thereabout, and make final order thereon: And if it be found there was no grounds of complaint, the complainant shall pay all charges arising thereby.

Select-men to
lay out town
ways.

And be it further Enacted by the Authority aforesaid, That the select-men of each town within this province respectively, are hereby empowered by themselves or a committee of three or more freeholders within such town, to lay out, or cause to be laid out, particular or private high-ways between any of the inhabitants or proprietors within their respective towns, as shall be by them thought necessary to and for any and every original lot laid out, or hereafter to be laid out, in and by any town or proprietors, so as no damage be done to any particular person, or his propriety, without due recompence to be made, either by the town, if concerned, or such of the inhabitants and proprietors who desire and reap the benefit of the same, as the select-men and parties may agree, or otherwise as shall be ordered by the court of quarter sessions of the peace, upon enquiry into the same by a jury to be summoned for that purpose.

Redress for
damages by
high ways.

Private and par-
ticular high
ways.

Satisfaction to
be made for
damages.

And be it further Enacted by the Authority aforesaid, That when and so often as the select-men of any of the towns within this province, shall unreasonably delay or refuse to lay out, or cause to be laid out, any such particular or private high-ways, as aforesaid, then in such case his Majesty's court of quarter sessions of the peace, may, and hereby are empowered by a committee whom they shall appoint, to cause to be laid out such particular high-ways within or for such town, or for or between any of the inhabitants thereof, to or for any such original lot or lots, so as no damage be done to any particular person or persons in his

By a jury, en-
quiry to be made.

Particular high
ways to be laid
out by quarter
sessions, in case.

land, without due recompence to be made either by the town, if it be of general benefit, otherwise by such of the inhabitants as have the benefit of such particular or private ways, as shall be ordered, as abovesaid.

Penalty for damage by bad high ways.

And be it further Enacted by the Authority aforesaid, That if through neglect, or not keeping in sufficient repair, any high-way, causey-way, or bridge, any person happen to lose his life in passing any such high-way, causey-way, or bridge, or lose a limb, break a bone, or receive any bruise, or breach in any part of his body, through any defect in, or want of necessary repair of such high-way, causey-way, or bridge; the province or town respectively to which of right it belongs to maintain and keep the same in repair, having been warned, or notified of such defect, and need of repairs and amendment thereof, either in writing under the hand of two witnesses, or by presentment thereof made at the sessions of the peace; shall pay unto the parents, husband, wife, children, or next of kin to any person so losing his or her life, the sum of one hundred pounds; and for any other harm, as aforesaid, double the damage sustained thereby, to be ordered and set upon them by the justices of the quarter sessions, who are hereby empowered thereto; and to render like recompence for any carriage, cart, horse, or other beast harmed or lost, proportionable to the damage suffered.

Pass'd the 4th of Geo. 1.

AN ACT FOR REGULATING FEES.

Be it Enacted and Ordained by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That the Establishment of the fees belonging to the several offices in this province, be as followeth.

Justices Fees.

	l.	s.	d.
For every attachment or summons for actions, not exceeding forty shillings.	0	1	0
Sub poena, each witness, two pence.	0	0	2
Entering the action, three shillings.	0	3	0
Every execution, two shillings.	0	2	0
Filing Papers, each paper, two pence.	0	0	2
Every warrant for criminals, one shilling.	0	1	0
Bond for appeal, one shilling.	0	1	0
Copy of evidences, the least, six pence.	0	0	6
Every recognizance, two shillings.	0	2	0
Confessing judgment, one shilling.	0	1	0
Affidavit out of court, one shilling.	0	1	0
Each day's attendance at the sessions, to be paid out of the fines, four shillings.	0	4	0
Acknowledging a deed or mortgage, or any other instrument, two shillings.	0	2	0

Coroner's Fees.

For taking every inquisition, to be paid out of the estate of the deceased, thirteen shillings and four pence.	o 13 4
If no estate then to be paid by the treasurer, six shillings and eight pence.	o 6 8

Fees for Probate of Wills, &c.

For granting administration, bond and letter of administration, under the seal of the office, if the inventory amount to thirty pounds, or upwards, to the judge four shillings, to the register three shillings and six pence.	o 7 6
If the inventory be under thirty pounds, five shillings	o 5 0
Probate of a will where the inventory amounts to thirty pounds, or upwards, to the judge three shillings and six pence, to the register two shillings and six pence.	o 6 0
If under thirty pounds, four shillings.	o 4 0
Recording a will, or inventory of one page, and filing the same, two shillings and six pence.	o 2 6
If more, each page of twenty-eight lines, eight words in a line, one shilling.	o 1 0
For a copy of a will or inventory twelve pence a page, each page to contain as aforesaid, one shilling.	o 1 0
Allowing Accompts, settling and dividing of intestate estates, five shillings.	o 5 0
Every Citation, one shilling.	o 1 0
Every Quietus, four shillings.	o 4 0
Making out a commission to receive and examine the claims of creditors to insolvent estates, and registering of the same, three shillings.	o 3 0
Registering of the Commissioners report, after the rate of one shilling per page, to be accounted as aforesaid.	o 1 0
For entering an order upon the administrator to pay out the estate in proportion unto the several creditors returned by the Commissioners, one shilling and six pence.	o 1 6

Secretaries Fees.

For ingrossing the acts or laws of the general assembly, ten shillings each, to be paid out of the publick revenue.	o 10 0
Every commission of the peace, and commission of oyer and terminer, ten shillings, to be paid out of the publick revenue.	o 10 0
Every commission for a military officer, three shillings, to be paid out of the publick revenue.	o 3 0

Special warrant or mittimus, by order of the Governor and Council, each two shillings and six pence.	0	2	6
Every commission under the great seal, for places of profit, ten shillings.	0	10	0
Every bond, two shillings.	0	2	0
Every order of council to the benefit of particular persons, two shillings and six pence.	0	2	6
Every petition to the Governor and Council, or general assembly, according to the import, from two shillings and six pence to ten shillings.			
A pass or sea brief, three shillings.	0	3	0
A bill of health, three shillings.	0	3	0
• Every writ for electing assembly men, directed to the sheriff, or marshal, under the province seal, five shillings, to be paid out of the publick revenue.	0	5	0
For transcribing the acts or laws passed by the general assembly into a book, twelve pence a page, each page to contain twenty-eight lines, eight words in a line, and so proportionably, to be paid out of the publick revenue.	0	1	0

IN THE SUPERIOR COURT.

The Justices Fees.

Entring of every action for trial, twenty shillings.	1	0	0
Out of which to the clerk, two shillings.	0	2	0
Taking every special bail, two shillings.	0	2	0
Allowing of a writ of error, three shillings.	0	3	0
Allowing a <i>habeas corpus</i> , two shillings.	0	2	0
Acknowledging satisfaction of a judgment on record, one shilling.	0	1	0
In all criminal cases where a fine is set, six shillings.	0	6	0
Taxing every bill of costs, one shilling.	0	1	0

Clerks Fees.

Every writ and the seal, one shilling and six pence.	0	1	6
Every rule of court, six pence.	0	0	6
Filing every declaration, one shilling.	0	1	0
To the jury to be paid down by the plaintiff, six shillings and six pence.	0	6	6
Every appearance, six pence.	0	0	6
Signing a judgment by default, one shilling.	0	1	0
Taking every verdict, and recording it, one shilling.	0	1	0
Copies of all records, twelve pence a page, each page containing twenty-eight lines, eight words in a line.	0	1	0
Less than one page, one shilling.	0	1	0
Every action withdrawn or non suit, one shilling.	0	1	0
Every petition read, one shilling.	0	1	0
Order thereon, one shilling.	0	1	0

Filing the record of each action, two pence.	0	0	2
Every execution, two shillings.	0	2	0

In Criminal Cases.

Drawing and engrossing every indictment or information, two shillings.	0	2	0
Every appearance, six pence.	0	0	6
For the discharge of any person upon bail for the peace, good behaviour, contempt, and the like, and warrant thereon, one shilling.	0	1	0
For awarding and making forth process against the defendant, on information, one shilling.	0	1	0
Every warrant for the peace, or good behaviour.	0	1	0

IN THE INFERIOR COURT.

Justices Fees.

Entry of every action, ten shillings.	0	10	0
Of which the clerk is to have two shillings.	0	2	0
Taking special bail, two shillings.	0	2	0
Of which the clerk is to have one quarter.			
Confessing judgment, one shilling.	0	1	0
Acknowledging satisfaction of judgment on record, one shilling.	0	1	0
Taxing every bill of cost, one shilling.	0	1	0
Whereof six pence to the clerk.	0	0	6
To the jury to be paid down by the plaintiff, six shillings and six pence.	0	6	6

Clerks Fees.

For every writ and seal, one shilling.	0	1	0
Entering appearance, six pence.	0	0	6
Entering and recording the verdict, one shilling.	0	1	0
Making up the record, one shilling.	0	1	0
Copies of all records, twelve pence each page, as before.	0	1	0
Every execution, two shillings.	0	2	0
Every action withdrawn or non-suit, one shilling.	0	1	0
Every sub poena, three pence.	0	0	3

Clerk of the Sessions of Peace, his Fees.

Entering complaint on indictment, two shillings.	0	2	0
Discharge of a recognizance, one shilling.	0	1	0
Making forth process against criminals, one shilling.	0	1	0
Every summons, three pence.	0	0	3
Every warrant for the peace, or good behaviour, one shilling.	0	1	0
Every license for houses of entertainment or retailing, five shillings, whereof two to the clerk.	0	5	0

Sheriffs or Marshals Fees, or Constables.

For serving every summons for trial, one shilling.	0	1	0
Every capias or attachment, two shillings.	0	2	0
And if above one mile, then three pence a Mile beside.	0	0	3
Bail bond, one shilling.	0	1	0
Levying execution for the first twenty pounds or under one shilling per pound; above that, not exceeding forty pounds, six pence per pound; above forty pounds, not exceeding one hundred pounds, three pence per pound; for whatsoever it exceeds one hundred pounds, two pence per pound, besides four pence per mile for travel from home.			
Every trial, one shilling.	0	1	0
Every precept for choosing representatives, two shillings, to be paid out of the treasury.	0	2	0

Cryers Fees.

For calling of the jury, six pence.	0	0	6
Every non-suit, twelve pence.	0	1	0
Every verdict, twelve pence.	0	1	0

Goalers Fees.

For turning the key upon every prisoner committed, five shillings, viz. commitment two shillings and six pence, discharging two shilling and six pence.	0	5	0
For diet for each prisoner, three shillings and six pence per week, and so proportionable, he finding the same.	0	3	6

Notary Publick's Fees.

For drawing and making protest, six shillings.	0	6	0
For every certificate under the seal of the office, four shillings.	0	4	0
For entring and registering protests, and other writings, for the first page twelve pence, and for so many pages more, as it shall contain, eight pence a page, accounting after the rate of twenty-eight lines, and eight words in a line to each page, and proportionably for so much more as shall be under a page; and six pence for each attestation on the original.			

Court of Admiralty's Fees.

For condemnation of every prize, above one hundred tons, fifteen pounds.	15	0	0
Condemnation of every prize under one hundred tons, ten pounds.	10	0	0

Every summons for trial, to the register, two shillings.	0	2	0
To the marshal for serving, four shillings.	0	4	0
Filing and allowing every libel,			
To the judge, six shillings and eight pence.	0	6	8
To the register, six shillings.	0	6	0
Every definitive decree, to the judge, twenty shillings.	1	0	0
To the register recording, six shillings and eight pence.	0	6	8
To the marshal, and cryer, eight shillings.	0	8	0
Filing papers, examining and taxing cost,			
To the judge, two shillings.	0	2	0
To the register, two shillings.	0	2	0
A warrant of apprizement, to the register, six shillings.	0	6	0
A warrant to take up deserters, runaways, &c. to the register, six shillings.	0	6	0
For every copy of records, twelve pence per page, twenty-eight lines to a page, and eight words in a line.	0	1	0
The attorney, or advocates fees, twelve shillings.	0	12	0

Custom-House Officers Fees.

To the collector for a register, six shillings.	0	6	0
For endorsing the same, two shillings.	0	2	0
A certificate for naval stores, three shillings.	0	3	0
For all foreign vessels entring inwards, and permit, six shillings.	0	6	0
To the Comptroller, where any is, one shilling.	0	1	0
To a waiter, six pence.	0	0	6
For all foreign vessels clearing outwards, the same as entring inwards.			
To the collector a certificate of unloading enumerated Goods, three shillings.	0	3	0
To the comptroller for the same, one shilling.	0	1	0

Coasting Vessels to the Provinces.

Entring inwards, and permit to unload, as far as Connecticut, two shillings.	0	2	0
The same outward, two shillings.	0	2	0
Entring inwards from Annapolis, New York, and the colonies thence to South Carolina, and a permit, to the collector, five shillings.	0	5	0
To the comptroller, one shilling.	0	1	0
Clearing outward, the same, six shillings.	0	6	0
Cocquet for European Goods to the said provinces,			
To the collector, two shillings.	0	2	0
To the comptroller, one shilling.	0	1	0

And every coquet for European goods bought at the shops, or else-where, though including several parcels, which may be entred together by the master.

To the collector, three shillings.

0 3 0

To the comptroller, one shilling.

0 1 0

Naval Officers Fees.

For entring of ships and vessels trading to this province from abroad, eight shillings.

0 8 0

Excepting from the provinces and colonies of Pennsylvania, New York, East and West Jersies, Connecticut, Rhode Island and Boston, eighteen pence entry and clearing.

0 1 6

For examining and recording certificates, that bond is given according to the act of navigation, two shillings.

0 2 0

For bond given according to the act of navigation, two shillings.

0 2 0

For clearing and certificate of the lading, two shillings & six pence.

0 2 6

To be paid in current passable bills of credit of this province.

Pass'd the 4th of Geo. 1. AN ACT FOR THE BETTER SECURING THE PAYMENT OF PRISON CHARGES.

Preamble.

Whereas persons are oft-times arrested and imprisoned for debt, or pretence thereof, not having sufficient to pay their prison charges, and the goaler or prison keeper is constrained to feed and support them at his own charge, to his great loss :

For prevention whereof ;

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Where prisoner for debt is not able to pay his prison fees and charges, he that took out the writ shall, &c.

That if any attorney practitioner in the law, or others, shall cause any person to be arrested and imprisoned upon mean process for debt, or pretence thereof ; and the prisoner be unable, or have not where-with to pay his prison charges, the person at whose suit he is committed, his attorney or lawyer, that took out and caused such writ to be served, in case the principal be out of this province, or government, shall stand charged for the prisoner's fees, diet, and other necessary charges, for so long time as he shall be held and detained in prison, upon such process ; no further prosecution being had thereon to a judgment in law, and be liable to the goaler or prison keeper's action for the same : Any law, usage or custom to the contrary notwithstanding.

Prison keeper to submit prisoners for debt.

And be it further Enacted by the Authority aforesaid, That all prisoners for debt, as well as criminals, shall be subsisted by the

goaler or prison keeper during their imprisonment ; for which subsistence each prisoner before he be discharged of the prison, shall pay the goaler three shillings and six pence per week.

His allowance.

AN ACT IN ADDITION TO THE ACT FOR THE REGULATING THE MILITIA.

Pass'd the 5th of Geo. 1.

Vide page 80.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That when and so often as the commanding officer of any of the companies of trained soldiers within this province, shall be legally required to detach any soldier or soldiers out of such his company for his Majesty's service, it shall be accounted a sufficient impress for such soldier or soldiers, that the commanding officer of such company send a warrant under his hand and seal, by the hand of a serjeant, unto such soldier's house, or usual place of his abode, for that end : And whatever soldier shall presume hereafter to neglect such warrant, or not to attend accordingly, shall pay a fine of four pounds, to be taken from such delinquent by the captains or commanding officers warrant, directed to the clerk of such company, and be applied to the encouragement of other soldiers who shall proceed in his Majesty's service. And if such delinquent refuse to pay such fine, he shall be forthwith sent to his Majesty's goal within this province, by virtue of such captains or commanding officers mittimus, there to remain, until he pay the aforesaid fine, together with all necessary fees and charges.

A warrant under the hand and seal of the captain left at a soldier's dwelling place is sufficient impress.

Penalty for not attending.

Delinquents to be sent to prison.

And be it further Enacted by the Authority aforesaid, That whosoever in the time of war, shall neglect to give their attendance at the garrison to which they are ordered by the committee of militia in the town where they dwell, or shall at any time omit, or negligently perform their duty of watching and warding, as they shall be ordered in their turns ; that is to say, to watch by night constantly from sun-setting to sun-rising, and to ward by day from sun-rising to sun-setting, with well fixed arms and ammunition, as they are ordered to appear on muster-days ; every such offender shall pay a fine of twenty shillings in money, for each offence besides the charges, and the fine to be repeated as often as any of the offences shall be committed. And in case any person or persons shall refuse the present payment of such fine, they shall forthwith, by warrant from the commanding officers of the company to which they belong, directed to the clerk thereof, be forthwith sent to his Majesty's goal in Portsmouth, there to remain until the fine be paid, and all charges accruing thereon. And in like manner, shall delinquents on training-days, and delinquents in appearing on alarms be punished, in case they pay not the fines by law to be inflicted.

Delinquents in watching, warding, how to be punished.

To be sent to goal.

And be it further Enacted by the Authority aforesaid, That no person or persons whatever in any town or garrison within this

No gun to be shot after sunset in time of war.

province, shall during the time of war, or of keeping a military watch in such town or garrison, presume to discharge or shoot off any gun or guns after sun-setting, or before the sun's-rising, unless in case of alarm, approach of an enemy, or other necessary defence ; on pain that every person so offending, and being thereof convicted before one or more of his Majesty's justices of the peace for this province, shall forfeit and pay the sum of five shillings, for each gun so discharged ; one moiety thereof to the use of the poor of the town where the offence is committed, and the other moiety to him or them that shall inform or prosecute for the same. And if such offender shall not be able to pay the said fine, then he shall be set in the stocks by the space of two hours.

If the person offending be in actual service, then to be laid neck & heels, &c.

And in case any person so offending doth belong to any garrison or forces in actual service, and kept in his Majesty's pay, he shall be punished at the discretion of the commission officers of the garrison, company, or troop where he belongs, by putting into the bilboes, laying neck and heels, riding the wooden horse, or running the gantlet.

Deserters accounted as felons, & to be punished with death, &c.

And be it further Enacted by the Authority aforesaid, That no soldier or mariner retained in his Majesty's service, and kept in his Majesty's pay in garrison, or elsewhere by sea or land, shall depart without licence of his commander, and desert his Majesty's service, on pain of being proceeded against as a felon, and shall suffer the pains of death, or some other grievous punishment at the discretion of the court before whom the trial shall be.

To be tried at superior court of oyer and terminer.

And every justice of peace within this province is hereby authorized and required to cause all such deserters, or run-away soldiers, or mariners, which he shall know or be informed of, to be apprehended and secured in order to a trial at the next superior court to be holden for this province, or at a court of oyer and terminer by commissioners to be especially appointed and empowered by the Governor and commander in chief for the time being, who is hereby authorized to grant commissions for that purpose.

Pass'd the 5th of Geo. 1. AN ACT FOR PREVENTING MASTERS OF SHIPS CONVEYING DEBTORS OUT OF THIS PROVINCE.

Preamble. Whereas complaint is made by sundry inhabitants of this province, that they have sustained great damage by masters of ships, and other vessels transporting their debtors out of this province into foreign parts of the world :

For preventing whereof ;

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same it is hereby Enacted :

No master of ship to har-

That no commander or master of any ship or vessel whatever, coming into, tarrying, or abiding in, or going forth of any port or

place of this province, shall receive, harbour, or entertain, conceal or secure on board such ship or vessel, or suffer there to be harboured or entertained any inhabitant of this province, or other person whatever, who is debtor to any of the inhabitants of the same, who doth withdraw or abscond on the account of his debts; nor shall he carry away over sea such debtor to the damage of any such inhabitants, under the penalty of one hundred pounds to be inflicted on such offender, by the court of general sessions of the peace within this province, and to be recovered by indictment or presentment of the grand jury or information, to the use of his Majesty, besides his paying all such damages as such creditor hath sustained thereby, to be recovered by an action of the case for that end to be brought against him, where no essoign, protection or wager of law shall be allowed.

bour debtors on board.

Penalty of one hundred pounds.

Liable to an action to pay damages.

And be it further Enacted by the Authority aforesaid, That every commander or master of any ship or other foreign vessel coming into any port or harbour in this province, shall give bond of one thousand pounds in the secretary's office, for his due attending this act; and that he shall at his sailing from hence leave in the aforesaid secretary's office a register of the names of all such passengers as he shall carry out of this province, under the like penalty.

Master to give bond of 1000 l.

Saving that if any such passenger shall by the space of fourteen days at the least next before the sailing of such ship or vessel, give publick notice of their intended voyage by their entering their names and design in the secretary's office, then such commander or master shall be exempted and saved harmless from any damage which may arise by such their departure; or if such persons affairs do require their speedy departure, so that they cannot give so long notice, in such case, they shall give bond with sufficient sureties of the inhabitants of this province to the value of one thousand pounds into the secretary's office, for the discharge and payment of such debts as shall be of them legally demanded after their departure.

To leave a register of passengers.

In case, passengers to give bond with sureties.

AN ACT FOR THE REGULATING THE ASSIZE OF CASK, AND PREVENTING DECEIT IN PACKING OF FISH, BEEF, AND PORK, FOR SALE.

Pass'd the 5th of Geo. 1.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That from and after the first day of August next, all sorts and kinds of thigh cask used for any liquor, fish, beef, pork, or any other commodities, within this his Majesty's province, shall be of London assize, that is to say, butts to contain one hundred and twenty-six gallons, puncheons eighty-four gallons, hogsheds sixty-three gallons, tearses forty-two gallons, barrels thirty-one gallons

Assize of thigh cask.

and an half; and made of sound, well-seasoned timber, and free of sap. And that fit persons be appointed from time to time, in all places needful, to view and gage all such cask, and such as shall be found of due assize shall be marked with the gagers mark, who shall have for his pains four pence per ton. And every cooper, shall set his distinct brand mark on his own cask, on penalty of forty shillings. And whosoever shall put to sale any new cask, being defective either in workmanship, timber, or assize, as aforesaid, upon proof thereof made before one justice of the peace, he shall forfeit such cask, and be fined the sum of ten shillings.

Quarter sessions
to appoint
gagers and
packers.

To be sworn.

Penalty for re-
fusing.

Cask to be of full
assize.

And be it further Enacted by the Authority aforesaid, That the justices of the peace, at their first general quarter sessions to be holden in this province, shall yearly in every town where it shall be needful choose and appoint a fit person or persons to be gagers and packers, and them to swear to the due execution of their office; which if any person so appointed shall refuse, he shall pay the sum of forty shillings, and another shall be appointed and chose in his stead. And every gager and packer shall take care that all cask in which he packs beef, pork, mackrel, fish, or other goods committed to his care, be of true and full assize, and that he pack the same in no other cask whatever; on penalty of ten shillings for every cask by him packed, that is or shall be defective in that respect. And if any of the before-mentioned provisions shall be packed into half barrels, or firkins, the same shall be made in proportion to the assize aforesaid, and be marked by the packer.

And for the preventing of fraud and deceit in the packing of pickled fish, beef and pork to be put to sale:

Beef and pork
to be faithfully
packed.

So fish and
mackrel.

Wages of pack-
ers, &c.

Be it further Enacted by the Authority aforesaid, That in every town where such goods are pack'd up for sale, the gager or packer of such town, or of the town wherein they are put to sale, or shipped shall see that it be well and orderly performed; that is to say, beef and pork, the whole, half, and quarter, and so proportionably, that the best be not left out; and so fish and mackrel, that they packed all of one kind; and that all cask so packed be full, and the fish sound and well seasoned, setting his seal on all cask so packed; and he shall receive of the owners for so packing, and sealing, four shillings per ton; and if any such provisions be put to sale, or shipped off without the packers mark, they shall be forfeited.

Pickled fish, &c.
to be put into
thight cask.

Cask to be
marked with
town mark.

And be it further Enacted, That all sorts of green or pickled fish, sturgeon, or flesh, that shall be put up for transportation to a foreign market, shall be searched, surveyed, and approved by a sworn packer, who shall take strict care, that the same be put up in thight cask of full gage, salted with suitable salt; and such as shall be so saved, and for it's condition found merchantable, and full, the packer shall seal with such brand mark as shall be assigned to the town, and such other cut mark added, as may denote the sort of provision, and time when packed. And all such other provision as the packer shall find wholesome and useful, though for it's quality it be not merchantable, he shall cause to be well

packed, salted, filled, and sealed, with the letter R. and such other letters as may signify the town, species, and time of packing.

Refuse to be marked.

And if any master of a ship, or other vessel, or any officers or mariners belonging thereto, shall receive such provisions not marked and sealed as aforesaid, aboard any of their ships or vessels, he or they who shall offend therein, shall forfeit double the value of all such provisions, and he that owns the provisions shall forfeit the like sum.

Masters of ships shall not transport unmarked cask.

And if any cooper or other person shall shift any fish or flesh, either on board or on shore, after the same hath been sealed and marked by the packer, and ship and export the same, the packer having not allowed of the same, and a-new sealed and marked the cask whereinto such provisions are shifted; all persons acting, ordering, or assisting therein, shall be set in the pillory not exceeding one hour, and shall likewise pay double damages to persons wronged thereby.

Fish nor flesh to be shifted without the packers allowance.

Penalty.

And it is further Enacted by the Authority aforesaid, That where any such provisions have lien above three months under the packers mark, betwixt the months of May and October, they shall again upon exportation or sale, be viewed or searched by the packer; that is to say, so many of them as may probably discover the condition of the whole; and if any be decayed or deceitfully dealt with, the packer shall cull and re-pack them, so as to distinguish and mark them for merchantable or refuse according to their condition. And if those who ship or export any such provision, shall neglect or refuse any such second search or survey, the packer is hereby ordered and impowered to deface his former mark, and for so doing shall be paid as if he had re-packed the same. And if the owner refuse to satisfy the packer, such packer shall have redress on complaint to any justice of the peace, who is hereby impowered to compel the payment thereof by distress.

To be repacked if lien 3 months.

And it is further Enacted by the Authority aforesaid, That all tar that shall be exposed to sale within this province, shall be in barrels, half barrels, and thirds of a barrel, of the measure and assize following; that is to say, the barrel to contain thirty-two gallons, the half barrel, and third of a barrel of the same gage proportionably, and in no other cask whatsoever. And all cask to be made of the same assize, and branded by the cooper, as abovesaid; on pain of forfeiture of all such cask as are not of due assize. And if any tar shall be exposed to sale in any cask not branded as aforesaid, the same shall be likewise forfeited.

Assize of tar barrels.

And further it is Enacted by the Authority aforesaid, That all fines, penalties, and forfeitures arising by virtue and force of this act, shall be, the one half to his Majesty towards the support of the government of this province, and the other half to him or them that shall inform and sue for the same in any of his Majesty's courts of record within this province.

Fines how to be applied.

Be it further Enacted by the Authority aforesaid, That there be a measurer of salt, and culler of fish in every sea-port town within this province, to be appointed, as aforesaid, who being likewise sworn for the faithful discharge of that office, shall cull all merchantable fish, and measure all salt that shall be imported, and

Measurers of salt and cullers of fish.

sold out of any ship or other vessel, and shall have three pence for every hogshead of salt by him so measured, to be paid, the one half by the buyer, the other half by the seller; and one penny per quintal for every quintal of merchantable fish by him culled, to be paid, one half by the buyer, the other half by the seller.

Pass'd the 5th
of Geo. 1.

AN ACT FOR THE SETTLEMENT AND SUPPORT OF GRAMMAR-SCHOOLS.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

Fifty house-
holders in any
town to provide
a school master.

One hundred
freeholders a
Latin school.

Select men to
raise money to
pay him.

Defective towns
to pay 20 pounds.

Quarter sessions
to give relief, in
case.

That every town within this province, having the number of fifty householders, or upwards, shall be constantly provided of a school-master to teach children and youth to read and write. And where any town or towns have the number of one hundred families, or householders, there shall also be a grammar school set up and kept in every such town, and some discreet person of good conversation, well instructed in the tongues, shall be procured to be master thereof; every such school-master to be suitably encouraged and paid by the inhabitants.

And the select-men of such towns respectively are hereby empowered to agree with such school-masters for salary, and to raise money by way of rate upon the inhabitants to pay the same.

And if any town qualified as aforesaid, shall neglect the due observance of this act for the procuring and settling of any such school-master, as aforesaid, by the space of six months; every such defective town shall incur the penalty of twenty pounds, for every conviction of such neglect, upon complaint made to the court of quarter sessions of the peace; which penalty shall be towards the support of such school or schools within this province, where there may be most need, at the discretion of the aforesaid court, to be levied by warrant from the court in proportion upon the inhabitants of such defective town, which warrant shall be directed to the select-men of such town, and paid in to the treasurer of this province, for the end aforesaid. And in default of payment thereof within three months from the date of such warrant, then execution to be issued against the said inhabitants.

And if any town that may attain to the number above-mentioned do suppose themselves incapable of complying with this act, they shall apply themselves to the court of general sessions of the peace within this province, who are hereby empowered to determine the same.

AN ACT IN ADDITION TO THE ACT FOR THE SETTLEMENT AND SUPPORT OF GRAMMAR SCHOOLS. Pass'd the 7th of Geo. 1.

Whereas the select-men of sundry towns within this province often neglect to provide grammar schools for their respective towns, whereby their youth lose much of their time, to the great hindrance of their learning : Preamble.

For remedy whereof ;

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That not only each town, but each parish within this province consisting of one hundred families, shall be constantly provided with a grammar school ; and the select-men of such towns and parishes respectively are hereby impowered to agree with such school-masters for salary, and to supply such school with sufficient fuel for fire as there shall be occasion, and to raise money by way of rate upon the inhabitants, to pay the same. Every town or parish of one hundred families, to have a grammar school.
The select-men to provide the master, and to pay him.

And further it is Enacted by the Authority aforesaid, That so often as it happens that any such town or parish, as aforesaid, (after publication hereof) is destitute of a grammar school for the space of one month, the select-men of such town or parish shall forfeit the sum of twenty pounds for every such neglect, to be paid out of their own estates, and to be applied towards the defraying the charges of the province. Penalty on the select-men in case of default.
Page 131.

AN ACT TO PREVENT AND MAKE VOID CLANDESTINE AND ILLEGAL PURCHASES OF LANDS FROM THE INDIANS. Pass'd the 5th of Geo. 1.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That all deeds of bargain, sale, lease, release, or quit-claim, titles, and conveyances whatsoever of any lands, tenements, or hereditaments within this province, either for term of years, for life or in fee, had, made, gotten, procured, or obtained from any Indian, or Indians, by any person or persons whatsoever at any time or times since the year of our Lord one thousand seven hundred, without the licence or approbation of the General Assembly of this province : And all deeds of bargain, and sale, titles, and conveyances whatsoever of any lands within this province, which hereafter shall be had, made, obtained, gotten or procured from any Indian, or Indians by any person or persons whatsoever without the licence, approbation, and allowance of the General Assem- Indian deed, made void without licence from General Assembly.

bly of this province for the same, shall be judged in the law to be null, void, and of none effect to all intents and purposes, as though they had never been made.

Penalty for
taking such
deed.

And be it further Enacted by the Authority aforesaid, That if any person or persons whatsoever, shall after the publication of this act presume to make any purchase, or obtain any title from any Indian, or Indians, for any lands, tenements or hereditaments within this province, contrary to the true intent and meaning of this act ; such person or persons so offending, and being thereof duly convicted in any of his Majesty's courts of record within this province, shall be punished by fine and imprisonment, at the discretion of the court where the conviction shall be, not exceeding double the value of the land so purchased, and not exceeding six months imprisonment.

Imprisonment.

Drunkards to be
posted.

And be it further Enacted by the Authority aforesaid, That the select-men in each town shall cause to be posted up in all publick houses within each town within this province, a list of the names of all persons reputed drunkards, or common tiplers, mispending their time and estate in such houses ; and every keeper of such house, after notice given him, as aforesaid, that shall be convicted before one or more justices of the peace, of entertaining or suffering any of the persons named in such list to drink or tipple in his or her house, or any of the dependencies thereof, shall forfeit and pay the sum of twenty shillings ; one moiety thereof to him or them who shall inform of the same, and the other moiety to and for the use of the poor of the town where such offence shall be committed.

Penalty on
tavern keepers.

Pass'd the 5th of AN ACT TO ENCOURAGE THE SOWING AND CURING OF HEMP, AND
Geo. 1. TO PRESERVE PITCH PINE TREES FOR DRAWING TURPENTINE.

Preamble.

Whereas it hath been found by experience, that this his Majesty's province of New-Hampshire is capable of producing good hemp fit for the use of his Majesty's royal navy, which will tend very much to the benefit of this province in general, and in particular to every person that shall improve this good design :

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

Curing of hemp
encouraged.

That if any person or persons whatsoever within this province, shall sow and cure by water-rotting any quantity of good, bright, sound and merchantable hemp, being the growth of this province, shall receive for his or their encouragement twelve pence per pound for all such quantities or parcels of hemp so cured and brought to the treasurer of this province, who is hereby empowered to pay the said twelve pence per pound, and to receive into the treasury all such hemp as shall be brought to him from time to time.

Provided, This act and every part and clause thereof relating to hemp any way whatsoever, continue for the term of three years, and no longer. To continue three years.

And whereas this his Majesty's province of New-Hampshire doth and may produce good quantities of turpentine fit and serviceable for graving or paying the ships of his Majesty's royal navy. And forasmuch as there are great quantities of pitch pine trees in the said province killed and destroyed by being cut and boxed on two or three sides at one time, whereas if those trees were only cut and boxed on one side they would produce turpentine for many years together, and if let alone a few years would recover, and be fit either for making of tar or turpentine again, by which means the waste now made would be prevented, and those trees rendered more serviceable to the respective owners, and to the country in general : Waste of pitch pines prohibited.

Be it therefore Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That no person or persons within this his Majesty's province of New-Hampshire shall presume to cut or make more than one box in one tree, for the making of turpentine, now growing or being, or that shall hereafter grow or be in the said province ; on the penalty or forfeiture of five pounds current money of the province, for every tree so cut or boxed ; which said sum of five pounds may be recovered by bill or plaint of any person in any court of record within this province, where there shall be no essoign, protection or wager of law : Any law, usage or custom to the contrary notwithstanding ; the one moiety of said penalty to be to the support of this his Majesty's government, and the other moiety to him or them that shall sue for the same. Such pitch pine trees as are within or upon any particular man's propriety are excepted in this act. Penalty of five pounds on such as make waste.

AN ACT FOR ENCOURAGING IRON WORKS IN THE PROVINCE OF NEW-HAMPSHIRE. Pass'd the 5th of Geo. 1.

Whereas there is very good iron mine or oar within this his Majesty's province of New-Hampshire, and the working of it up within the same being very likely to prove of great advantage to the said province in general ; and whereas sundry gentlemen have already advanced a stock for the setting up and erecting several furnaces and mills for the refining and working up of the said oar. Preamble.

Be it therefore Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That from and after the publication of this act, no person or persons whatsoever shall export by water, or carry by land any No iron oar to be exported.

iron oar out of this province into any other parts or province whatsoever, under the penalty of ten pounds per ton, besides the oar so found to be carrying or transporting out of the province ; and the said penalties to be recovered by bill, plaint or information in any of his Majesty's courts of record within this province ; the one half thereof to the use of his Majesty's government, the other half to him that sues for the same.

Pass'd the 7th of
Geo. 1.

AN ACT FOR THE PREVENTING GAMING IN PUBLICK HOUSES.

Preamble.

Whereas it is very obvious that many persons often resort to publick houses to spend their time in gaming, to the great scandal of religion, and the impoverishment of many families :

For preventing whereof ;

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Court assembled, and by the Authority of the same :

The keepers of
public houses to
have no imple-
ments for gam-
ing.

Nor to suffer
their guest to
play in their
houses or depen-
dencies.

The penalty on
the taverner.

Penalty on the
player.

That no taverner, inn-keeper, ale-house-keeper, or victualler, shall have or keep in or about their houses, out-houses, yards, back-sides, gardens or places to them belonging, any dice, cards, nine-pins, tables, bowls, shuffle-boards, billiards, or any other imple-ments used in gaming ; nor shall suffer any person or persons resorting unto any of their houses to use or exercise any of the said games, or any other unlawful game or sport within their said houses, or any of the dependencies, as aforesaid, or places to them belonging ; on pain of forfeiting the sum of twenty shillings for every such offence, upon due conviction thereof ; the said fine to be for the use of the poor of such town where the offence is committed ; and every person convicted of playing, as aforesaid, in any such house or dependencies thereof, shall forfeit the sum of five shillings, to be disposed of as aforesaid.

Pass'd the 8th of
Wm. 3.

AN ACT REQUIRING ALL PERSONS TO TAKE THE OATHS APPOINTED TO BE TAKEN INSTEAD OF THE OATHS OF ALLEGIANCE AND SUPREMACY.

Preamble.

Whereas a late horrid and detestable conspiracy against his Majesty's sacred person, hath by the providence of almighty God, been happily discovered, and thereby his Majesty's royal person preserved : To the intent that all his subjects within this province may now recognize their duty and allegiance :

Be it therefore Enacted and Ordained by the Lieutenant Governor, Council, and Representatives, convened in General Assembly, and it is hereby Enacted and Ordained by the Authority of the same :

That all male persons within this province, from sixteen years old and upward, on due notice of time and place, shall appear and take the oaths appointed by act of parliament to be taken, instead of the oaths of allegiance and supremacy. And that two or more justices of the peace, appointed thereto by the Lieutenant Governor, for each town, shall give notice for time and place of meeting, and administer the said oaths in the respective towns accordingly; returning a list of the names of all persons so sworn unto the secretary's office. And in case any person shall refuse to take the said oaths, the persons appointed to administer the same, shall forthwith commit him to the common goal, there to remain without bail or mainprize, for the space of three months; unless he pay down forty shillings, for the use of the poor; and become bound with sufficient securities to be of the good behaviour, and to appear at the next quarter sessions of the peace, where, if he continues obstinate in his refusal to take the said oaths, he shall be fined, not exceeding ten pounds, and his bond of good behaviour continued.

Every male person above the age of sixteen to take the oaths.

Two justices of the peace to appoint the time & place, by order of the Lieutenant Governor.

In case any refuse to swear the justices are to commit them, unless he pay 40s. and be bound to the session.

Penalty for second refusal.

And whereas there are certain persons who are scrupulous in swearing :

Every such person or persons shall make and subscribe the oath of fidelity following, viz.

"I *A. B.* do sincerely promise, and solemnly declare before God "and the world, that I will be true and faithful to King William "and Queen Mary; and I do solemnly profess and declare, that I "from my heart abhor, detest, and renounce as impious and heretical that damnable doctrine and position, that princes excommunicated, or deprived by the Pope, or any authority of the see "of Rome, may be deposed or murdered by their subjects, or any "other whatsoever; and I do declare that no foreign prince, person, prelate, state, or potentate, hath or ought to have any power, "jurisdiction, superiority, preheminance, or authority, ecclesiastical or spiritual, within the realm of England, or any of their "Majesty's dominions.

Declaration of fidelity.

And whereas by an act of parliament made and passed in the first year of the reign of his late Majesty King George the first, intituled, An act for the further security of his Majesty's person and government, and the succession of the crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors, all officers and persons therein-mentioned or described, are enjoined and obliged to take the oaths appointed to be taken instead of the oaths of allegiance and supremacy, in these words, viz.

Additional act.

"I *A. B.* do sincerely promise and swear, that I will be faithful "and bear true allegiance to his Majesty King George. So help "me God.

Preamble.

"I *A. B.* do swear, that I do from my heart abhor, detest and
 "abjure as impious and heretical that damnable doctrine and posi-
 "tion, that princes excommunicated or deprived by the Pope, or
 "any authority of the see of Rome, may be deposed or murdered
 "by their subjects, or any other whatsoever. And I do declare,
 "that no foreign prince, person, prelate, state or potentate hath or
 "ought to have any jurisdiction, power, superiority, preheminance
 "or authority, ecclesiastical or spiritual, within this realm.

And also to take and subscribe the following oath, viz.

"I *A. B.* do truly and sincerely acknowledge, profess, testify
 "and declare in my conscience before God and the world, that our
 "Sovereign Lord King George is lawful and rightful king of this
 "realm, and all other his Majesty's dominions and countries there-
 "unto belonging. And I do solemnly and sincerely declare, that
 "I do believe in my conscience that the person pretended to be
 "Prince of Wales, during the life of the late King James, and since
 "his decease pretending to be, and taking upon himself the stile
 "and title of King of England, by the name of James the third,
 "or of Scotland, by the name of James the eight, or the stile and
 "title of King of Great-Britain, hath not any right or title what-
 "soever to the crown of this realm, or any other the dominions
 "thereto belonging. And I do renounce, refuse and abjure any
 "allegiance or obedience to him. And I do swear, That I will
 "bear faith and true allegiance to his Majesty King George,
 "and him will defend to the utmost of my power against all trait-
 "erous conspiracies and attempts whatsoever, which shall be made
 "against his person, crown or dignity. And I will do my utmost
 "endeavour to disclose and make known to his Majesty and his
 "successors, all treasons and traitorous conspiracies which I shall
 "know to be against him, or any of them. And I do faithfully
 "promise to the utmost of my power to support, maintain and de-
 "fend the succession of the crown against him the said James,
 "and all other persons whatsoever; which succession by an act
 "intituled, An act for the further limitation of the crown
 "and better securing the rights and liberties of the subject, is
 "and stands limited to the Princess Sophia, electoress and
 "dutchess dowager of Hanover, and the heirs of her body, being
 "Protestants. And all these things I do plainly and sincerely
 "acknowledge and swear according to these express words by me
 "spoken, and according to the plain and common sense and under-
 "standing of the same words without any equivocation, mental
 "evasion, or secret reservation whatsoever. And I do make this
 "recognition, acknowledgment, abjuration, renunciation and prom-
 "ise, heartily, willingly and truly upon the true faith of a chris-
 "tian. So help me God.

Preamble.

Now to the intent that all persons whomsoever sustaining or
 holding any office within his Majesty's government of this prov-
 ince, by vertue of any commission from his Excellency the Gover-
 nor, or by authority derived from him, take and subscribe the
 aforesaid oaths; and also to discourage and prevent all persons
 disaffected to his Majesty's rightful and happy government, and

the Protestant succession as by law established from coming into, or residing within this province :

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That as well the members of his Majesty's Council, the Representatives in the General Assembly, as all and every person and persons that have, bear, or sustain any office or offices within this province, by virtue of any commission from his Excellency the Governor, or by authority derived from him, shall before they enter upon, and act in their respective offices, before his Excellency the Governor, Lieutenant Governor, two or more of the Council, or such others as shall be thereto appointed by the Governor, take and subscribe the several oaths herein before-mentioned : And in case such officer or officers neglect or refuse to take the said oaths, or subscribe thereto, they shall be *ipso facto* adjudged incapable and disabled in law to have, occupy or enjoy the said office or offices, employment or employments, or any part of them, or any profit or advantage thereby ; and every such office, place or employment shall be adjudged utterly void.

Officers obliged to take the oaths to his Majesty.

And be it further Enacted by the Authority aforesaid, That all and every other person or persons whatsoever now inhabiting or residing within this province, or which shall at any time hereafter reside or dwell within the same, shall when thereunto required by two of his Majesty's justices of the peace *quorum unus*, take and subscribe the oaths aforesaid.

Others obliged thereto when required.

And be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for any two justices of the peace (*quorum unus*) in this province, to give and administer the oaths aforesaid from time to time to any person or persons, and upon due tender of any such person or persons to take the said oaths, the said two justices are hereby required and enjoined to administer the same, and a list of the names of all persons so sworn, to be returned into the secretary's office.

Justices empowered to administer the oaths.

And be it further Enacted, That it shall and may be lawful to and for two or more justices of the peace (*quorum unus*) to tender the oaths herein before appointed to be taken to any person or persons whomsoever, whom they shall or may suspect to be disaffected to his Majesty, or his government. And if any person or persons to whom the said oaths shall be so tendered, shall neglect or refuse to take the same, the said justices shall commit the said person or persons so refusing to the common goal, there to remain without bail or mainprize, for the space of three months ; unless such offender shall pay down to the said justices so tendering the said oaths, such sum of money, not exceeding forty shillings, as the said justices shall require such offender to pay for his said refusal ; which money shall be to his Majesty for the support of the government of this province : And unless such refuser become bound with two sufficient sureties for the good behaviour, and also to appear at the next court of general sessions of the peace to

40s. or imprisonment for the first refusal.

rol. or imprisonment, &c. for refusal before the sessions.

be held for this province. At which court the said oaths shall be again tendered to him by the justices of the said court in open sessions, and if he then refuses to take the said oaths, the said justices shall commit the said person or persons so refusing to the common goal, there to remain for the space of six months; unless every such offender shall pay down to the said justices such sum of money, not exceeding ten pounds, nor under five pounds, as the said justices shall require, to be paid for his second refusal; the said money to be disposed in manner as aforesaid; and unless every such offender shall likewise become bound with two sufficient sureties, with condition to be of the good behaviour, until he take the said oaths: And all such persons so refusing are hereby rendered incapable of giving any vote for Representatives or jurors, or in the choice of any town officers.

And whereas the people call'd quakers scruple the taking any oath:

Be it Enacted by the Authority aforesaid, That every such person over and above the declaration of fidelity already enjoined them by the law of this province, shall for the future, if thereunto required, make and subscribe the effect of the abjuration oath, in the following words; viz.

Quakers declaration instead of the abjuration oath.

"I A. B. do truly and sincerely acknowledge, profess, testify
 "and declare in the presence of almighty God, the witness of
 "the truth of what I say, that King George is lawful and rightful
 "king of the realm of Great-Britain, and of all other his domin-
 "ions and countries thereunto belonging. And I do solemnly
 "and sincerely declare, that I do believe the person pretended to
 "be the Prince of Wales, during the life of the late King James,
 "and since his decease pretending to be and taking upon himself
 "the stile and title of king of England, by the name of James the
 "third, or of Scotland, by the name of James the eighth, or the
 "stile and title of King of Great-Britain, hath not any right or
 "title whatsoever to the crown of the realm of Great-Britain, nor
 "any other the dominions thereunto belonging. And I do re-
 "nounce and refuse any allegiance and obedience to him. And I
 "do solemnly promise, that I will be true and faithful and bear
 "true allegiance to King George, and to him will be faithful
 "against all traiterous conspiracies and attempts whatsoever,
 "which shall be made against his person, crown or dignity. And
 "I will do my best endeavour to disclose and make known to King
 "George and his successors all treasons and traiterous conspira-
 "cies which I shall know to be made against him, or any of them.
 "And I will be true and faithful to the succession of the crown
 "against him the said James, and all other persons whatsoever, as
 "the same is and stands settled by an act intituled, An act de-
 "claring the rights and liberties of the subject, and settling the
 "succession of the crown to the late Queen Anne, and the heirs
 "of her body, being Protestants. And as the same by one other
 "act intituled, An act for the further limitation of the crown and
 "better securing the rights and liberties of the subject, is and
 "stands settled and intailed after the decease of the said late
 "Queen, and for default of issue of the said late Queen, to the late

"Princess Sophia, electoress and dutchess dowager of Hanover, and
 "the heirs of her body being Protestants. And all these things I
 "do plainly and sincerely acknowledge, promise and declare
 "according to these express words by me spoken, and according
 "to the plain and common sense and understanding of the same
 "words, without any equivocation, mental evasion, or secret reser-
 "vation whatsoever. And I do make this recognition, acknowl-
 "edgment, renunciation and promise heartily, willingly and truly.

And be it further Enacted, That all persons aforesaid, when
 thereto required as above-mentioned, shall repeat and subscribe
 the following declaration, on the pains and penalties aforesaid in
 case of refusal, to be so recovered and applied.

"I *A. B.* do solemnly and sincerely in the presence of God,
 "profess, testify and declare, that I do believe that in the sacra-
 "ment of the Lord's-supper, there is not any transubstantiation
 "of the elements of bread and wine into the body and blood of
 "Christ, at or after the consecration thereof by any person what-
 "soever: And that the invocation or adoration of the virgin Mary
 "or any other saint, and the sacrifice of the Mass, as they are now
 "used in the church of Rome, are superstitious and idolatrous.
 "And I do solemnly in the presence of God, profess, testify and
 "declare, that I do make this declaration and every part thereof,
 "in the plain and ordinary sense of the words read unto me, as
 "they are commonly understood by English Protestants, without
 "any evasion, equivocation or mental reservation whatsoever; and
 "without any dispensation already granted me for this purpose
 "by the Pope, or any authority or person whatsoever, or without
 "any hope of any such dispensation from any authority or person
 "whatsoever, or without thinking that I am or can be acquitted
 "before God or man, or absolved of this declaration or any part
 "thereof, although the Pope or any other person or persons or
 "powers whatsoever, should dispense with or annul the same, or
 "declare that it was null and void from the beginning.

AN ACT TO ASCERTAIN THE TIME FOR THE REDEMPTION OF
 LANDS MORTGAGED ON CONDITION, OR BY DEED OF SALE WITH
 DEFEASANCE. Pass'd the 14th
of Geo. 1.

*Be it Enacted by the Lieutenant Governor, Council, and Rep-
 resentatives, convened in General Assembly, and by the Author-
 ity of the same:*

That where any mortgagee or vendee of any houses or lands
 granted on condition, hath recovered or entered into, and taken
 possession of the same for the condition broken, the mortgager or
 vender or his heirs tendering payment of the original debt and
 damages, or such part thereof as was remaining unpaid at the
 time of entry, with reasonable costs and allowance for any dis-
 bursements afterwards, laid out on such housing and lands, for the

The mortgager
to tender pay-
ment.

The mortgagee to accept the payment.

The mortgagee to execute a release and quit claim.

Money to be left with the court in case.

Time limited for the mortgagor bringing his suit.

A saving to infants, feme-coverts, &c.

advancement and bettering the same, over and above what the rents and profits or improvements thereof made shall amount unto, upon a just computation thereof by the court, as on hearing the parties shall be made to appear ; the mortgagee or vendee or his heirs, or the present tenant in possession, (being the purchaser and holding in his own right) shall be obliged to accept such payment, and to restore and deliver the possession of the estate unto the mortgager or vender or his heirs, and seal and execute, and acknowledge a good and sufficient deed in the law of release and quit-claim to the same ; but in case of his not appearing in court, or refusal to accept such payment tendered, the whole of the said monies which the court shall enter judgment for, being left in custody of the court, on behalf, and for the use of the mortgagee or vendee his heirs or assigns, judgment shall be entered up for the mortgager or vender, or his heirs, to recover possession of such houses or lands, and execution be accordingly awarded.

And be it further Enacted by the Authority aforesaid, That at any time hereafter, where the mortgagee or vendee shall be in actual possession of any estate granted on condition, or bargain and sale with defeasance, it shall be in the liberty of the mortgager or vender, or his heirs, to bring his suit in manner as aforesaid, for redemption thereof, within the space of one year, to be accounted from the time of the mortgagee's entry into and taking possession, without an action, or being put into the possession thereof, by writ of possession, and not afterwards.

Provided also, That this act shall not be understood, to bar the title of any infant, feme-covert, or person *non compos mentis*, imprisoned, or in captivity, who shall be allow'd the term of one year next after such imperfection or impediment shall be removed, to pursue their claim or challenge, to any houses or lands wherein they have title.

Pass'd the 7th of Geo. 1.

AN ACT FOR THE BETTER REGULATING HIGH-WAYS.

Preamble.

Whereas it is found by daily experience that the repairing high-ways by assessments on the several inhabitants of each town within this province, is attended with sundry inconveniences :

For remedy whereof ;

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

High ways repaired by labour.

Penalty for refusing.

How to be applied.

That henceforward all high-ways in the several towns within this province, shall be repaired by labour ; and whosoever refuseth to work, or send a good able man, shall pay five shillings for each day's neglect ; and the said money shall be applied for the use of said wages ; and in case any having forfeited the aforesaid sum of five shillings, do refuse to pay the same to the surveyor or sur-

veyors, for the time being, the same shall be levied by a warrant from one of his Majesty's justices of the peace.

And be it further Enacted by the Authority aforesaid, That as often as the surveyors, for the time being, in any of the towns within this province, shall find it necessary to repair the high-ways, they shall warn the inhabitants of their several districts to appear with such necessary tools, and at such place and time as the said surveyors shall think meet ; and the surveyors, for the time being, are hereby impowered to impress any oxen, cart, cart-wheels, chains and yokes, as they shall have occasion of for said service ; and if any refuse to let go the same, they shall pay a fine of three shillings for each yoke of oxen, and twelve pence for wheels, and cart, to be converted as aforesaid. And all persons inhabiting in any of the towns within this province, from eighteen years old and upward, shall be obliged to work on said high-ways, or send a sufficient man in their room, to the acceptance of the surveyors ; excepting only the Governor, Lieutenant Governor, ministers, and school-masters of every town.

The surveyor to warn the inhabitants.

Surveyors to impress oxen, &c.

Penalty for refusing them.
How applied.

Persons 18 years old and upward to work.

A saving.

And for the better effecting thereof ;

Be it further Enacted by the Authority aforesaid, That a sufficient number of persons shall be annually chosen surveyors in every town, who shall be upon oath ; and if any person so chosen shall refuse to serve, he shall pay a fine of forty shillings unto the person that shall be chosen surveyor in his room.

Surveyors to be chosen, &c.

And if in case they or any of them do neglect doing their duty, that upon complaint made to any one justice of the town, where such neglect is, and the said justice having given the surveyor or surveyors notice thereof ; and if in six days after such notice given, the said neglect still remains, the said justice is impowered to impose a fine on such surveyor or surveyors, not exceeding twenty shillings, and so *toties quoties*.

Surveyors neglecting their duty to be fined.

And whereas several high-ways are infringed on by reason of people's fencing or building on the same :

High ways infringed on.

Be it further Enacted by the Authority aforesaid, That every person or persons so offending, upon notice given them by the surveyor or surveyors, shall be obliged to remove said fence or building ; and in case that within two months after such notice given, the fence or building be not removed, and the person or persons so offending still refuse or neglect to do it, it shall be in the power of the surveyor or surveyors to pull down such fence or building at the charge of the person or persons so offending ; and the money for defraying said charges shall be levied by a warrant from any one justice of the peace (of the town where such offence is done) on the estate or body of the person or persons offending, upon application of the surveyor or surveyors, for the same.

Persons building on high-ways, upon notice given them by the surveyor, must remove the same, otherwise to be pull'd down at their own charge.

And when it so happens that the surveyors have occasion for any copies out of the town-books, for the ends aforesaid, the town-clerk shall let them have such copies at the town charge, which the select-men shall pay to the said clerk. And whereas timber is often wanting for the repairing high-ways ; It shall be in the power of the surveyor or surveyors, to purchase such tim-

Surveyors to have copies, &c.

To buy timber.

ber when and so often as there shall be occasion for the same, and the town to pay for it.

And whereas it often happens, that the lot-layers of a town are related to persons having land in controversy, or are themselves parties concerned, which causeth many inconveniencies :

For remedy whereof ;

A provision where lot layers are related to the parties, or are parties themselves.

Be it further Enacted by the Authority aforesaid, That so often as it happens that the lot-layers of any town within this province are any ways related to persons having land in controversy, or are themselves parties concerned, that the lot-layers of any of the towns next adjoining in such cases shall (when occasion requires it) be made use of to lay out lands, run new, or perambulate old lines, and the same shall be as authentick as if the lot-layers of the same town had done it.

Pass'd the 9th of Wm. 3.

AN ACT TO PREVENT DAMAGES BY HORSES.

Preamble.

Whereas there hath been complaint made of unruly horses doing of damage in this province, both in corn-fields, meadows, and pastures, which if not timely prevented will be very prejudicial to the inhabitants of this province :

Be it therefore Enacted by the President, Council, and Representatives, convened in General Assembly, and it is hereby Enacted and Ordained by the Authority of the same :

No horse to go unfettered on the commons, on penalty of 10s.

That no horse, or horse-kind shall be suffered to go loose upon any common land belonging to any town in this province, or on the high ways, without they have a sufficient pair of fetters on, from the last of March to the last of October, from year to year, upon the penalty of paying ten shillings money ; the one half to him that impounds them, (which any person may lawfully do) the other half to the select-men for the use of the poor of the town where they are impounded ; or the said sum may be recovered against the owner of such beast by action of debt, by any person who will sue for the same, to be applied as aforesaid. And if any man's horse or horse-kind shall be found in any man's corn-field, meadow, or pasture, or other inclosure, such beast may be impounded by the party aggrieved, and the owner of such horse, or horse-kind, shall pay a fine of ten shillings money ; the one half to him who shall cause such beast to be impounded, the other half to the use of the poor of that town where they do damage, before such horse or horse-kind shall be released out of pound, besides all damages to the party grieved ; if such horse or horse-kind have not on a sufficient pair of fetters : except there be proof that such horse or horse-kind had on sufficient fetters when last turn'd out, and had broken or lost them ; in such case to pay only the damage for the first offence. And in no case shall any unruly horse, or horse-kind, be suffered to go on the commons abovesaid, that is known to be unruly with fetters, though never so well fettered ;

If taken in any inclosure the same fine, unless he had broke his fetters.

A known unruly horse not to go upon the commons, under penalty of 10s.

upon the penalty of the owners paying ten shillings money ; the one half to him or them who shall impound them, the other half to the use of the poor, as aforesaid. Neither shall any person that is not a freeholder keep any horse, or horse-kind, upon any of the commons ; upon the penalty of ten shillings money ; to be taken by the constable, by warrant from a justice of the peace in that town where the offence is committed ; the one half to them that shall impound them, the other half to the use of the poor, as abovesaid : And the same penalties to be incurred with respect to such beasts running on common lands belonging to particular proprietors.

No person besides a freeholder shall keep a horse on the commons, under penalty of 10s.

And whereas by the unnecessary increase of horses and horse-kind, and the want of due care of them, they are become very injurious by going unfettered in the winter season, as well as at other times : Therefore,

Be it Enacted by the Governor, Council, and Representatives, in General Assembly convened :

That no horse, or horse-kind, shall go loose upon any commons within this province belonging to any town or propriety, or upon the high-ways, without having on a sufficient pair of fetters, at any time of the year, but on the penalty of ten shillings, to be recovered by impounding, or by action, and applied as is above directed in the foregoing act.

AN ACT FOR THE CALLING AND ELECTING ASSEMBLY-MEN, AND THEIR QUALIFICATION. Pass'd the 1st of Geo. 3.

Whereas an act was passed *anno Georgii primi decimo*, for the calling an assembly once in three years, in which was a proviso, that it should not be in force until his Majesty's pleasure be known ; which act was accordingly sent to the Right Honourable the Lords Commissioners for trade and plantations, that the royal approbation might be had thereon : And inasmuch as the same has not yet been signified, after so long a time, it is presumed that if it had been disagreeable to his Majesty, his disallowance thereof had long since been made known : Preamble.

And forasmuch as a triennial assembly is agreeable to the laws and constitution of Great-Britain :

Be it therefore Enacted by his Honour the Lieutenant Governor, Council, and Representatives, convened in General Assembly, by the Authority of the same :

That no assembly or house of representatives of this province, shall continue longer than three years at the farthest, from the time of their first being called and qualified ; and that this present house of representatives shall continue until the thirteenth day of Assembly to continue three years, and no longer.

Fifteen days between the test of the writs & the election.

Qualification of assembly men, and of voters.

Manner of deciding disputes about voters.

Any person may vote where his estate lies.

April, one thousand seven hundred and thirty-one, (unless the commander in chief dissolve it sooner) and no longer : And that there shall be fifteen days, at least, between the date of the writs for electing them, and the time of their being chosen ; And that no person shall be allow'd to serve in the house of representatives as a member thereof, unless he hath a real estate within this province of the value of three hundred pounds ; and the qualification of the person so elected shall be determined by the House of representatives for the time being. And no person shall have the liberty of voting in the choice of representatives, other than such who has a real estate of the value of fifty pounds within the town, parish, or precinct where such election shall be ; which qualification of voters shall be adjudged and decided by the moderator of the meeting where such election shall happen, together with the select-men of the town, parish, or precinct, or the major part thereof ; and if the moderator and select-men should be divided in opinion thereon, then the controversy to be determined by the house of representatives for the time being ; and that the person or persons so chosen, shall be by the major part of the voters then present.

And be it further Enacted by the Authority aforesaid, That any person, having a real estate of fifty pounds value as abovesaid, shall have the liberty of voting in the town, parish, or precinct, where such his estate shall be, although he be not an inhabitant in said town, parish or precinct at the time of such election.

Pass'd the 5th of Geo. 2.

AN ACT FOR GRANTING UNTO HIS MAJESTY AN EXCISE ON SEVERAL LIQUORS.

Preamble.

We his Majesty's most loyal and dutiful subjects, the representatives of this his Majesty's province of New-Hampshire in New-England, considering that provision is to be made for the support of the government within this province, and for answering the incident charges thereof, do chearfully grant unto his most excellent Majesty, to the ends, uses, and intents aforesaid, and no other, an excise upon wine, rum, and other spirits, cyder and perry, retail'd and sold in lesser quantities than one barrel or quarter cask within this province ; and humbly pray the same may be enacted : Therefore,

Be it Enacted by his Excellency the Governor, Council, and house of Representatives, convened in General Assembly, and by the Authority of the same :

Excise on spirituous liquors.

That there shall be paid by all tavernkeepers, innholders and retailers within this province, for all such wine, rum, and other spirits, cyder and perry, as they shall sell or retail, the excise following, viz. By every tavernkeeper or innholder, eight pence per gallon on wine, rum, or any other spirits, and for cyder or perry

eighteen pence per barrel; by every retailer out of doors, six pence per gallon on any wine, rum, and other spirits.

All which excise aforesaid shall be paid quarterly to such receiver as shall be appointed to receive the same, or to his deputy, or to him or them to whom the same shall from time to time be farmed or lett, in publick bills of credit, the said tavernkeepers and retailers being allow'd a deduction of twenty per cent. for wastage on all such wine, rum, and other spirits, as they shall have bought for sale, an account of which they shall give quarterly unto the said receiver or his deputy, upon oath; which oath the said receiver or his deputy is hereby authorized to require and cause the same to be taken before any one of his Majesty's justices of the peace within said province, who are hereby impowered to administer said oath, which the said parties are hereby enjoined and ordered to take.

Receiver to be appointed.

And be it further Enacted by the Authority aforesaid, That if any person concern'd in this act, or to whom the same relates, refuse to take the proper oath, at the request of the receiver or his deputy, they shall forfeit the sum of ten pounds, and so *toties quoties*, to be recover'd by the receiver or his deputy, upon complaint made to the court of general sessions of the peace, or to any justice of the peace within this province, who are hereby respectively impowered to give judgment and award execution thereon accordingly.

Oath to be taken.

And be it further Enacted by the Authority aforesaid, That any person or persons within this province, who shall, after the passing of this act, without licence first had from the court of general sessions of the peace, sell any wine, rum, or other spirits, cyder or perry, in lesser quantities than twenty-five gallons to be deliver'd at one time, shall forfeit and pay the sum of five pounds for every such offence, one third to the said person or persons that shall inform and sue for the same, one third to the receiver, and the other third to the support of the government, to be recover'd before any one of his Majesty's justices of the peace within this province; and one credible evidence shall be deemed as sufficient proof thereof.

Forfeiture for selling without licence.

And be it further Enacted by the Authority aforesaid, That if any master or other person belonging to any vessel trading to this province, shall sell any wine, rum, or other spirits as aforesaid, from on board any vessel in lesser quantities than twenty-five gallons to be deliver'd at one and the same time, he shall suffer the penalty of five pounds for every such offence, to be recovered and divided as aforesaid.

Masters of vessels liable.

And be it further Enacted by the Authority aforesaid, That every person duly summoned to give evidence respecting the breach of this act, (other than children and servants of the party complain'd of) who shall refuse to give evidence upon oath, when so required, what he or she knows concerning the premisses, shall forfeit the sum of five pounds, to be divided as aforesaid.

Penalty for refusing to give evidence.

And be it further Enacted by the Authority aforesaid, That the fines herein mentioned, to be paid by the tavernkeepers and retailers in case of their refusal to swear to the quantity of liquor

Tavernkeepers, &c. paying the fines, not to pay excise for that quarter.

by them purchased for sale as aforesaid, be, and hereby is intended to be, in full satisfaction for their quarterly excise.

Sessions not to
grant licence &c.

And be it further Enacted by the Authority aforesaid, That the justices of his Majesty's court of general sessions of the peace for said province, are hereby prohibited from granting any licence to any taverner or retailer, unless such taverner and retailer produce to said court a certificate from the receiver of the excise, that he hath paid his excise to that Time.

Pass'd the 4th
of Geo. 2.

AN ACT IN ADDITION TO AN ACT INTITULED, AN ACT FOR REGULATING FEES.

Preamble.

Whereas upon examination of the table of fees, it appears there is a great deficiency therein, and in order to amend and compleat the same :

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That the fees heretofore omitted in the former Act be as follows :

Governor's Fees.

	l.	s.	d.
For every register,	0	10	0
Every certificate for naval stores,	0	10	0
Every pass for foreign vessels,	0	4	0
Every pass to the fort,	0	2	0

Justices of the Superiour Court.

Out of every fine, forfeiture, or amerciamment,	1	10	0
Every appeal in civil,	0	3	0
To the clerk for recognizance,	0	3	0
To the clerk for every copy of a case, each page	0	1	0
For a certificate on the case,	0	2	0
For a certificate, on single papers,	0	0	6

Justices of the Inferiour Court.

For every appeal,	0	3	0
To the clerk for recognizance on appeal,	0	2	0
Copy of a case, each page	0	1	0
Certificate on the case,	0	2	0
Certificate on single papers,	0	0	6

Justices of the Quarter Sessions.

For every appeal,	0	3	0
To the clerk for recognizance on appeal,	0	2	0

Copy of every case, each page	0	1	0
For a certificate thereon,	0	2	2
Certificate on single papers,	0	0	6

Justices of Peace.

Every summons or attachment,	0	1	0
Appeal and recognizance,	0	4	0
Sub-pena for evidence,	0	0	4
For each trial in criminal cases,	0	3	0
Every warrant,	0	3	0
Every mittimus,	0	3	0
Copy of the case, each page	0	1	0
Certificate thereon,	0	2	0
Taxing a bill of cost,	0	1	0
Adjournment at the request of either party,	0	2	0
Drawing a complaint,	0	3	0
For pleading before a Justice,	0	3	0
Drawing a writ in civil cases before a justice,	0	2	0
Drawing any other writ,	0	4	0
To the party for summoning witnesses, for each witness	0	1	0
And for making return of each summons,	0	2	0
Plaintiffs, defendants, and witnesses attendance, each a day,	0	2	0

Notary Publick.

Bill of health,	0	5	0
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Naval Officer.

For clearing foreign vessels.	0	4	0
Certificate on Naval Stores,	0	10	0

Jurors.

Grand jury, for every indictment	0	13	0
Petit jury, for every trial	0	13	0
Grand jurors, for attendance, each a day out of the treasury,	0	2	0

AN ACT IN ADDITION TO AN ACT INTITULED, AN ACT FOR THE INSPECTING AND SUPPRESSING DISORDERS IN LICENCED HOUSES. Pass'd the 4th of Geo. 2.

Whereas in said act there is a penalty on the taverners, inn- Preamble.
holders, common victuallers or retailers, which shall suffer any
inhabitant to sit drinking in their houses above two hours, or after
ten o'clock at night, unless on special occasions, as by said act
will more at large appear: And whereas there is no penalty on

the persons that sit drinking in said taverns against the intent of the said act : Therefore,

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Persons who sit drinking in a tavern, &c. above a hour, or after ten at night, to pay a fine of 5s.

That from and after the passing of this act, any person or persons that shall sit drinking in any such taverns, ale-houses, or common victuallers, above two hours, or after ten o'clock at night, other than travellers, persons upon business or extraordinary occasions, or lodgers there, shall pay a fine of five shillings for every such offence, for the use of the poor of the town where such offence is committed.

No retailer to sell mixed liquor, under a penalty of 5l.

And be it further Enacted by the Authority aforesaid, That no retailer may sell any mixed liquor or drink to any person or persons whatsoever, nor suffer any person to sit drinking any strong drink or liquor within the said retailer's house, or the appendages thereof, under the penalty of five pounds, to be recover'd by presentment of the grand jury, action, bill, plaint, or information, and disposed of as the penalties inflicted in and by the act for granting to his Majesty an excise on several liquors : And every person who shall be found sitting and drinking in any retailer's house, or the appendages thereof, for every such offence shall be fined five shillings, for the use of the poor of the town where such offence is committed.

Penalty of 5s to those who sit drinking at a retailer's.

No tavern-keeper to trust any inhabitant above 5s. nor retailer above 20s.

And be it further Enacted by the Authority aforesaid, That no tavernkeeper or innholder shall trust or give credit to any person that is an inhabitant of any town or precinct within this province, on any score or credit in a tavern for strong drink above five shillings ; and no retailer of spiritous liquors above the sum of twenty shillings for such liquors ; and no process or attachment for any such debt shall be granted against any such persons as shall hereafter stand so indebted : And any justice of the peace within this province, before whom it shall be made appear that any such inhabitant is committed or restrained upon process granted for any such debt above the sums aforesaid, by any taverner or retailer respectively demanded, shall forthwith order such debtor's release. And every justice of the peace within this province, is hereby empowered to hear and determine the matters and causes upon the fines herein mentioned, as fully in all respects as he or they are empowered to hear and determine cases relating to the breaches of the act for inspecting and suppressing disorders in licenced houses.

And be it further Enacted by the Authority aforesaid, That the penalty for profane swearing and cursing be ten shillings, instead of one shilling ; and that the penalty for sabbath-breaking be twenty shillings, instead of five shillings.

AN ACT FOR THE BETTER PRESERVATION AND INCREASE OF DEER Pass'd the 14th of Geo. 2.
WITHIN THIS PROVINCE.

Whereas the killing of deer at unseasonable times of the year, hath been found very much to the prejudice of this province; great numbers thereof having been hunted and destroyed in deep snows, when they are very poor and big with young, the flesh and skins of very little value, and the increase thereof greatly hinder'd :

Preamble.

Be it therefore Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same it is hereby Enacted :

That no person or persons whatsoever within this province, from and after the last day of December, one thousand seven hundred and forty-one, till the first day of August, one thousand seven hundred and forty-two, and so from the last day of December to the first day of August following, annually, forever hereafter, shall any ways whatsoever kill any buck, doe, or fawn, on pain that such person or persons, so offending, shall forfeit the sum of ten pounds, one half for and towards the support of the government, and the other half to the informer, or him that shall sue for the same : And that any two of his Majesty's justices of the peace within this province, be, and hereby are, impowered to hear and determine all suits that shall arise relating thereto. And if any person or persons, offending as abovesaid, shall not have wherewithal to pay his or their fine or fines, he or they shall work forty days for the first offence, and fifty days for every offence afterwards, as shall be determined by any two justices of the peace within this province, who are hereby authorized and impowered to bear and determine the same ; and the wages or earnings of the offender shall be employed to and for the uses and ends abovesaid.

Deer not to be kill'd from the last of Dec. to the 1st of Aug. annually.

Penalty.

Persons not having wherewithal to pay their fines, must work for the same.

And if any venison, skin or skins of any buck, doe, or fawn, newly killed, shall at any time in any of the aforesaid months, wherein by this act they are prohibited to be kill'd, be found with or in possession of any person or persons whatsoever, such person or persons shall be held and accounted in the law to be guilty of killing deer contrary to the intent of this act, as fully as if it were proved against such person by sufficient witness, *viva voce* ; except such person do bring forth and make proof who was the person or persons that sold or killed the same : *Provided nevertheless*, that it shall not extend to tame deer, or those kept in inclosures.

Persons to be accounted guilty who have any venison, &c. in possession.

And be it further Enacted by the Authority aforesaid, That every town within this province, at their annual meeting, shall make choice of two proper persons to inspect and search any suspected houses or places, where any such deer or deer kind aforesaid may be kill'd or hid ; and that they shall be sworn to the faithful discharge of their said office.

Each town to chuse persons to search, &c.

AN ACT OF PARLIAMENT.

An Act for ascertaining the Rates of foreign Coins in Her Majesty's Plantations in America.

Whereas for remedying the inconveniences which had arisen from the different rates at which the same species of foreign silver coins did pass in her Majesty's several colonies and plantations in America, her most excellent Majesty has tho't fit by her royal proclamation, bearing date the eighteenth day of June, one thousand seven hundred and four, and in the third year of her reign, to settle and ascertain the currency of foreign coins in her said colonies and plantations, in the manner and words following.

We having had under our consideration the different rates at which the same species of foreign coins do pass in our several colonies and plantations in America, and the inconveniences thereof, by the indirect practice of drawing the money from one plantation to another; to the great prejudice of the trade of our subjects: and being sensible, that the same cannot be otherwise remedied, than by reducing of all foreign coins to the same current rate within all our dominions in America; and the principal officers of our mint having laid before us a table of the value of the several foreign coins which usually pass in payments in our said plantations, according to their weight; and the essays made of them in our mint, thereby shewing the just proportion which each coin ought to have to the other; which is as followeth; viz. Sevill pieces of eight, old plate, seventeen penny-weight twelve grains, four shillings and six pence; Sevill pieces of eight, new plate, fourteen penny-weight, three shillings seven pence one farthing; Mexico pieces of eight, seventeen penny-weight twelve grains, four shillings and six pence; Pillar pieces of eight, seventeen penny-weight twelve grains, four shillings and six pence three farthings; Peru pieces of eight, old plate, seventeen penny-weight twelve grains, four shillings and five pence, or thereabouts; cross dollars, eighteen penny-weight, four shillings and four pence three farthings; Ducatoons of Flanders, twenty penny weight and twenty one grains five shillings and six pence; Ecu's of France, or silver Lewis, seventeen penny-weight twelve grains, four shillings and six pence; Crusadoes of Portugal, eleven penny weight four grains, two shillings and ten pence one farthing; Three Gilder pieces of Holland, twenty penny weight and seven grains, five shillings and two pence one farthing; Old Rix-Dollars of the empire, eight penny weight and ten grains, four shillings and six pence: The halves, quarters and other parts in proportion to their denominations, and light pieces in proportion to their weight: We have therefore thought fit for remedying the said inconveniences, by the advice of our council, to publish and declare, that from and after the first day of January next ensuing the date hereof, no Sevill, Pillar, or Mexico pieces of eight, though of the full weight of seventeen penny weight and an half, shall be accounted, received, taken, or paid within any of our said colonies or planta-

tions, as well those under proprietors and charters, as under our immediate commission and government, at above the rate of six shillings per piece current money, for the discharge of any contracts or bargains to be made after the said first day of January next, the halves, quarters, and other lesser pieces of the same coins to be accounted, received, taken, or paid in the same proportion : And the currency of all pieces of eight of Peru, dollars, and other foreign species of silver coins, whether of the same or baser alloy, shall, after the said first day of January next, stand regulated, according to their weight and fineness, according and in proportion to the rate before limited and set for the pieces of eight of Seville, Pillar and Mexico ; so that no foreign silver coin of any sort be permitted to exceed the same proportion upon any account whatsoever. And we do hereby require and command all our governors, lieutenant-governors, magistrates, officers, and all other our good subjects, within our said colonies and plantations, to observe and obey our directions herein, as they tender our displeasure.

And whereas notwithstanding the said proclamation, the same indirect practices as are therein mentioned, are still carried on within some of the said colonies or plantations, and the money thereby drawn from one plantation to another, in prejudice of the trade of her Majesty's subjects : Wherefore for the better enforcing the due execution of her Majesty's said proclamation throughout all the said colonies and plantations ; and for the more effectual remedying the said inconveniences thereby intended to be remedied :

Be it Enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, That if an person within any of the said colonies or plantations, as well those under proprietors and charters, as under her Majesty's immediate commission and government, shall after the first day of May, which shall be in the year of our Lord, one thousand seven hundred and nine, for the discharge of any contracts or bargains to be thereafter made, account, receive, take or pay any of the several species of foreign silver coins mentioned in the before-recited proclamation, at any greater or higher rate than at which the same is thereby regulated, settled and allowed, to be accounted, received, taken or paid, every such person so accounting, receiving, taking or paying the same contrary to the directions therein contained, shall suffer six months imprisonment, without bail or main-prize : Any law, custom or usage in any of the said colonies or plantations to the contrary hereof in any wise notwithstanding : And shall likewise forfeit the sum of ten pounds for every such offence ; one moiety thereof to her Majesty, her heirs and successors ; the other moiety to such person or persons as shall sue for the same : To be recovered with full costs of suit, by action of debt, bill, plaint or information, in any of her Majesty's courts of justice within any of the said plantations, or in any of the courts of justice of the charter or proprietary governments where such offence shall be committed.

Penalty for accounting, receiving, taking or paying any of the several species of foreign silver coins herein mentioned, at any greater or higher rate after the first of May, 1709.

Provided nevertheless, and it is hereby declared, That nothing in the before-recited proclamation, or in this act contained, shall extend, or be construed to compel any person to receive any of the said species of foreign silver coins, at the respective rates in the said proclamation mentioned.

Provided also, and it is hereby further declared, That nothing in this act contained, shall extend or be construed to restrain her Majesty from regulating, and settling the several rates of the said species of foreign silver coins within any of the said colonies or plantations, in such other manner, and according to such other rates and proportions as her Majesty by her royal proclamation for that purpose to be issued, shall from time to time judge proper and necessary ; or from giving her royal assent to any law hereafter to be made in any of the said colonies or plantations, for the settling and ascertaining the current rates of such coins within the said colonies or plantations ; but that such further regulations may be made, and such assent given, in as full and ample manner, to all intents and purposes, as the same might have been done in case this act had not been made, and no otherwise : Any thing herein before contained to the contrary hereof in any wise notwithstanding.

The fifth and sixth Paragraphs of the Statute of Geo. 1. C. 12. relating to the Preservation of his Majesty's Woods in America ; being the whole concerning that Matter that is in said Act.

V. Whereas the laws already made, and still in force, for the preservation of white pine trees in his Majesty's colonies of New-Hampshire, the Massachusetts-Bay, and province of Main, Rhode-Island, and Providence Plantation, the Narraganset country, or Kings Province, and Connecticut in New-England, and New-York, and New-Jersey, in America, for the masting the royal navy, have been found insufficient for that purpose, so that a further provision is necessary to be made therein : And forasmuch as there are great numbers of white pine trees, fit for masting the royal navy, growing in his Majesty's province of Nova-Scotia in America ; *Be it therefore Enacted by the Authority aforesaid*, That from and after the twentyfirst day of September, one thousand seven hundred and twenty-two, no person or persons within the said colonies or plantations of Nova-Scotia, New-Hampshire, the Massachusetts-Bay, and province of Main, Rhode-Island, and Providence Plantation, the Narraganset country, or Kings Province, and Connecticut in New-England, and New-York, and New-Jersey, in America, or within any of them, do or shall presume to cut, fell, or destroy any white pine trees, not growing within any township, or the bounds, lines, or limits thereof, in any of the said colonies or plantations, without his Majesty's royal licence for so doing first had and obtained, on pain that every person so cutting, felling, and destroying such pine trees, or who shall be aiding or assisting therein, or in drawing away the said

No white pine
trees, &c. in
America to be
cut or felled
after 21 Sept.
1722.

pine trees, after the same shall have been so cut, felled, or destroyed, shall, for every such offence, forfeit and pay the several and respective sums following ; That is to say, for every white pine tree, of the growth of twelve inches diameter and under, at three foot from the earth, the sum of five pounds ; for every such tree, from twelve inches to eighteen inches diameter, the sum of ten pounds ; for every such tree, from eighteen inches to four and twenty inches diameter, the sum of twenty pounds ; and for every such tree, from four and twenty inches diameter and upwards, the sum of fifty pounds ; which several penalties and forfeitures shall and may be sued for within six months after the offence committed, by plaint or information, upon the oath of one or more credible witness or witnesses, before the judge of the admiralty, or his deputy, within the colony or plantation where such pine tree shall be cut, felled, or destroyed ; one moiety of such penalties and forfeitures to be to his Majesty, his heirs or successors, the other moiety to the informer who shall sue for the same ; and in case any dispute shall arise whether such tree, when cut, felled, or destroyed, was growing within any township, or the bounds, lines, or limits thereof, as aforesaid, the proof shall lie upon the owner ; and on conviction of such offender for such offence, as aforesaid, if he shall refuse or neglect to pay the penalty and forfeiture thereby incurred by the space of twenty days after such conviction, that then such judge, or his deputy, shall and may, by warrant under his hand and seal, cause the same to be levied by distress and sale of the goods of the offender, rendering the overplus, if any be, to the owner ; and when no sufficient distress can be found, such judge or deputy shall commit the offender to prison, within the colony or plantation where such offence shall be committed, there to remain without bail or mainprize, during such time as such judge or deputy shall appoint, not exceeding twelve months, nor less than three months, or until such offender shall pay the penalty or sum of money so recovered ; and after such payment made, shall likewise find sufficient security for his good behaviour, during the space of three years, to be accounted from the time of such his conviction : And it is hereby declared, that all white pine-trees, masts, or logs made from such trees, which from and after the said one and twentieth day of September, one thousand seven hundred and twenty-two, shall be found cut or felled without such licence, as aforesaid, in any of his Majesty's said colonies or plantations, shall be forfeited and seized for the use of his Majesty, his heirs and successors : Any former law, usage, or custom to the contrary notwithstanding.

Penalties on offenders.

How to be recovered.

White pine trees, masts, &c. felled without licence, forfeited to the King.

VI. And whereas by one other act made in the ninth year of the reign of her late Majesty Queen Anne, intituled, An act for the preservation of white and other pine trees growing in her Majesty's colonies of New-Hampshire, the Massachusetts-Bay, and province of Main, and Rhode-Island, and Providence Plantation, the Narraganset Country, or King's Province, Connecticut, in New-England, and New-York, and New Jersey, in America, for the masting of his Majesty's navy ; it was, amongst other things, Enacted, That no person or persons within the said colonies and

9 A. cap. 17.

Repeal of part
of the act 9 Anne
for preservation
of white and
other pine trees,
&c.

plantations, should cut, fell, or destroy any white pine tree fit for mast (not being the property of any private person) such tree being of the growth of four and twenty inches diameter and upwards, at twelve inches from the earth, without her Majesty's licence, on the penalty of one hundred pounds sterling, to be recovered, levied, and distributed, as therein is mentioned; *Be it hereby further Enacted*, That so much of the said act, as relates to the cutting, felling, or destroying such white pine trees, and the penalties to be incurred thereby, shall, from and after the one and twentieth day of September, one thousand seven hundred and twenty-two, be and stand absolutely repealed.

Several Paragraphs of the Statute of Geo. 2. relating to the Preservation of His Majesty's Woods in America.

Preamble.

Whereas by an act passed in the eighth year of his late Majesty's reign, intituled, An act giving further encouragement for the importation of naval stores, and for other purposes therein mentioned, it is enacted, That no person or persons whatsoever, within any of his Majesty's colonies of Nova-Scotia, New-Hampshire, Massachusetts-Bay, the province of Main, Rhode-Island, and Providence Plantation, the Narraganset country, or King's Province, and Connecticut in New-England, and New-York, and New-Jersey in America, or within any of them, do or shall presume to cut, fell, or destroy any white pine trees, not growing within any township, or the bounds, lines, or limits thereof, in any of the said colonies or plantations, without his Majesty's royal licence for so doing first had and obtained: And whereas since the passing of the said act, great tracts of land, where trees fit for masting grow, have been, in order to evade the provisions of the said act, erected into townships: Now for the better preservation of white pine trees in his Majesty's said colonies, for masting his royal navy, *Be it Enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the Authority of the same*, That from and after the twentieth day of September next, no person or persons within the said colonies of Nova-Scotia, New-Hampshire, the province of Main, the Massachusetts-Bay, Rhode-Island, and Providence Plantation, the Narraganset country, or King's province, and Connecticut in New-England, and New-York, and New-Jersey, in America, or within any of them, or in any other province or country in America, that now belongs, or hereafter shall belong to the crown of Great-Britain, do or shall presume to cut, fell, or destroy any white pine trees, except only such as are the property of private persons, notwithstanding the said trees do grow within the limits of any township laid out, or to be laid out hereafter, in any of the said colonies or plantations, without his Majesty's royal licence for so doing first had and obtained.

After 29 Sept.
1739, no person
in the planta-
tions to cut any
white pine trees,

except those of
private property.

And whereas their late Majesties King William and Queen Mary, for the better providing and furnishing masts for the royal navy, in and by their charter, dated at Westminster the seventh day of October, in the third year of their reign, granted to the province of the Massachusetts-Bay in New-England, in America, did reserve to themselves, their heirs, and successors, all trees of the diameter of twenty-four inches and upwards, at twelve inches from the ground, growing upon any soil or tract of land within the said province or territory, not thentofore granted to any private person; in order therefore to make the said reservation more effectual, *Be it further Enacted by the Authority aforesaid*, That no person or persons whatsoever within the said province of the Massachusetts-Bay, or New-England, do or shall presume to cut or destroy any white pine trees of the diameter of twenty-four inches or upwards, at twelve inches from the ground, not growing within some soil or tract of land, within the said province, granted to some private person or persons before the seventh day of October, which was in the year one thousand six hundred and ninety, without his Majesty's licence first had and obtained, and every person so cutting, felling, or destroying such white pine trees, not being the property of private persons, in any of the colonies above-mentioned, and likewise every person cutting or destroying any white pine trees, of the diameter of twenty-four inches and upwards, at twelve inches from the ground, growing in any tract of land in the province of New-England or Massachusetts-Bay, not granted to some private person or persons before the seventh day of October, one thousand six hundred and ninety, or who shall be aiding or assisting therein, or in drawing away the said pine trees, after the same shall have been so cut and felled, shall be subject to such and the like forfeitures and penalties respectively, as are provided in the aforesaid act of the eighth year of his late Majesty's reign, for and against such persons as fell, cut, or destroy any pine trees, not being or growing in any township within any of the said plantations; the said forfeitures to be recovered and applied in the same manner, as in the said act is particularly set forth and enacted.

No white pine trees of the diameter of 24 inches, at 12 inches from the ground, to be cut without licence, on penalty of the forfeiture in act 8 Geo 1.

STATUTE 9 AND 10 WM. 3. CAP. 17.

An Act for the better Payment of Inland Bills of Exchange.

Whereas great damages and other inconveniences do frequently happen in the course of trade and commerce, by reason of delays of payment and other neglects on inland bills of exchange in this kingdom; *Be it therefore Enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and the Commons of this present parliament assembled, and by the authority of the same*, That from and after the four and twentieth day of June next, which shall be in the

Preamble.

Inland bills of exchange,

year one thousand six hundred ninety-eight all and every bill or bills of exchange drawn in, or dated at and from any trading city or town, or any other place in the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, of the sum of five pounds sterling or upwards, upon any person or persons of or in London, or any other trading city, town, or any other place (in which said bill or bills of exchange shall be acknowledged and expressed the said value to be received) and is and shall be drawn payable at a certain number of days, weeks or months after date thereof, that from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the parties hands so accepting) and after the expiration of three days after the said bill or bills shall become due, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the said bill or bills to be protested by a notary publick, and in default of such notary publick, by any other substantial person of the city, town or place, in the presence of two or more credible witnesses, refusal or neglect being first made of due payment of the same, which protest shall be made and written under a fair written copy of the said bill of exchange, in the words or form following :

to be accepted,

to be protested
for non-pay-
ment.

The form of the
protest.

Know all men, that I *A. B.* on the ——— day of ——— at the usual place of abode of the said ——— have demanded payment of the bill, of which the above is the copy, which the said ——— did not pay, wherefore I the said ——— do hereby protest the said bill. Dated at ——— this ——— day of ———

Protest to be
sent within 14
days.

II. Which protest so made, as aforesaid, shall, within fourteen days after making thereof, be sent, or otherwise due notice shall be given thereof to the party from whom the said bill or bills were received, who is, upon producing such protest, to repay the said bill or bills, together with all interest and charges from the day such bill or bills were protested ; for which protest shall be paid a sum not exceeding the sum of six pence ; and in default or neglect of such protest made and sent, or due notice given within the days before limited, the person so failing or neglecting thereof, is and shall be liable to all costs, damages and interest which do and shall accrue thereby.

Bills of exchange
mis-carrying, the
drawer oblig'd to
give another.

III. Provided nevertheless, that in case any such inland bill or bills of exchange shall happen to be lost or miscarried within the time before limited for payment of the same, then the drawer of the said bill or bills is, and shall be obliged to give another bill or bills of the same tenour with the first given, the person or persons to whom they are and shall be so delivered giving security, if demanded, to the said drawer, to indemnify him against all persons whatsoever, in case the said bill or bills of exchange so alledged to be lost or miscarried, shall be found again.

STATUTE OF 3 AND 4 ANNE, CAP. 9.

An Act for giving like Remedy upon Promisory Notes as is now used upon Bills of Exchange and for the better Payment of Inlands Bills of Exchange.

Whereas it hath been held, that notes in writing, signed by the party who makes the same, whereby such party promises to pay unto any other person, or his order, any sum of money therein mentioned, are not assignable or indorsible over within the custom of merchants, to any other person; and that such person to whom the sum of money mentioned in such note is payable, cannot maintain an action, by the custom of merchants, against the person who first made and signed the same; and that any person to whom such note should be assigned, indorsed, or made payable, could not, within the said custom of merchants, maintain any action upon such note against the person who first drew and signed the same: Therefore, to the intent to encourage trade and commerce, which will be much advanced, if such notes shall have the same effect as inland bills of exchange, and shall be negotiated in like manner; *Be it Enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present parliament assembled, and by the authority of the same,* That all notes in writing that after the first day of May, in the year of our Lord one thousand seven hundred and five, shall be made and signed by any person or persons, body politick or corporate, or by the servant or agent of any corporation, banker, goldsmith, merchant, or trader, who is usually intrusted by him, her or them, to sign such promissory notes for him, her or them, whereby such person or persons, body politick and corporate, his, her, or their servant or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politick and corporate, his, her or their order, or unto bearer, any sum of money mentioned in such note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons, body politick, and corporate, to whom the same is made payable; and also every such note payable to any person or persons, body-politick and corporate, his, her or their order, shall be assignable or indorsible over, in the same manner as inland bills of exchange are or may be, according to the custom of merchants; and that the person or persons, body politick and corporate, to whom such sum of money is or shall be by such note made payable, shall and may maintain an action for the same, in such manner, as he, she or they might do, upon any inland bill of exchange, made or drawn according to the custom of merchants, against the person or persons, body politick and corporate, who, or whose servant or agent, as aforesaid, signed the same; and that any person or persons, body politick and corporate, to whom such note that is payable to any person or persons, body politick and corporate, his, her or their order is indorsed or assigned, or the money therein men-

Preamble.

Promissory notes may be assigned or indorsed, and action maintained thereon as on inland bills of exchange,

tioned ordered to be paid by indorsement thereon, shall and may maintain his, her or their action for such sum of money, either against the person or persons, body politick and corporate, who, or whose servant or agent, as aforesaid, signed such note, or against any of the persons that indorsed the same, in like manner as in cases of inland bills of exchange: And in every such action the plaintiff or plaintiffs shall recover his, her or their damages and costs of suit; and if such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her or them, the defendant or defendants shall recover his, her or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, defendant or defendants respectively recovering, may sue out execution for such damages and costs, by *capias*, *feri facias*, or *elegit*.

with costs of suit.

How actions shall be bro't.

21 Jac. 2. c 16.

Proviso as to notes given out by bodies corporate.

II. *And be it further Enacted by the Authority aforesaid*, That all and every such actions shall be commenced, sued and brought within such time as is appointed for commencing or suing actions upon the case, by the statute made in the one and twentieth year of the reign of King James the first, intituled, An Act for limitation of actions, and for avoiding of suits in law.

III. Provided, That no body politick or corporate shall have power, by virtue of this act, to issue or give out any notes by themselves or their servants, other than such as they might have issued if this act had never been made.

9 W. 3 cap. 17.

IV. And whereas by an act of parliament made in the ninth year of the reign of his late Majesty King William the third, intituled, An act for the better payment of inland bills of exchange, it is, among other things, enacted, That from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the parties hand so accepting) and after the expiration of three days after the said bill or bills shall become due, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the same bill or bills to be protested in manner as in the said act is enacted: And whereas by there being no provision made therein for protesting such bill or bills, in case the party on whom the same are or shall be drawn refuse to accept the same, by under-writing the same under his hand, all merchants and others do refuse to under-write such bill or bills, or make any other than a promissory acceptance, by which means the effect and good intent of the said act in that behalf is wholly evaded, and no bill or bills can be protested before, or for want of such acceptance by under-writing the same, as aforesaid: For remedy whereof, *Be it Enacted by the Authority aforesaid*, That from and after the first day of May, which shall be in the year of our Lord one thousand seven hundred and five, in case upon presenting of any such bill or bills of exchange, the party or parties on whom the same shall be drawn, shall refuse to accept the same, by under-writing the same, as aforesaid, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the said bill or bills to be protested for non-acceptance, as in case of foreign bills of exchange; any thing in the said act, or any other law, to the contrary notwithstanding.

Party refusing to under write bill of exchange, such bill may be protested for non-acceptance.

standing : for which protest there shall be paid two shillings, and no more. Fee for protest.

V. Provided alawas, That from and after the said first day of May, no acceptance of any such inland bill of Exchange shall be sufficient to charge any person whatsoever, unless the same be under-written or indorsed in writing thereupon ; and if such bill be not accepted by such under-writing, or indorsement in writing, no drawer of any such inland bill shall be liable to pay any costs, damages, or interest thereupon, unless such protest be made for non-acceptance thereof, and within fourteen days after such protest, the same be sent, or otherwise notice thereof be given to the party from whom such bill was received, or left in writing at the place of his or her usual abode ; and if such bill be accepted, and not paid before the expiration of three days after the said bill shall become due and payable, then no drawer of such bill shall be compellable to pay any costs, damages, or interest thereupon, unless a protest be made and sent, or notice thereof be given, in manner and form above-mentioned : Nevertheless, every drawer of such bill shall be liable to make payment of costs, damages and interest, upon such inland bill, if any one protest be made for non-acceptance, or non-payment thereof, and notice thereof be sent, given or left, as aforesaid. No acceptance of inland bills of exchange to be sufficient, unless the same be under-written, nor drawing thereof liable to costs, &c.

VI. Provided, That no such protest shall be necessary, either for non-acceptance or non-payment of any inland bill of exchange, unless the value be acknowledged and expressed in such bill to be received, and unless such bill be drawn for the payment of twenty pounds sterling or upwards ; and that the protest hereby required for non-acceptance, shall be made by such persons as are appointed by the said recited act to protest inland bills of exchange for non-payment thereof. No protest necessary for nonpayment, unless the bill be drawn for 20l. or upwards.

VII. *And be it further Enacted*, That from and after the said first day of May, if any person doth accept any such bill of exchange for and in satisfaction of any former debt, or sum of money formerly due unto him, the same shall be accounted and esteemed a full and complete payment of such debt, if such person accepting of any such bill for his debt doth not take his due course to obtain payment thereof, by endeavouring to get the same accepted and paid, and make his protest, as aforesaid, either for non-acceptance, or non-payment thereof. By whom protest shall be made.

VIII. Provided, That nothing herein contained shall extend to discharge any remedy, that any person may have against the drawer, acceptor or indorser of such bill. Acceptance of bill esteemed a full payment of debt.

An Act for the better Regulation and Government of Seamen in the Merchants Service. Proviso.

Whereas the welfare and riches of this kingdom greatly depend on the trade and navigation thereof, the same being of great use and benefit, and tending very much to enriching the subjects Statute of a Geo. 2. cap. 36.

Preamble.

thereof, upon which great numbers of the artificers and manufacturers livelihoods wholly depend ; and whereas, for several years last past, the navigation carried on by the merchants to parts beyond the seas, hath been, and doth still remain, under very great difficulties and expences, by the uncertainty they labour under by seamen and mariners, who ship themselves on board merchant ships, and after they have so done, neglect their duty, and will not remain on board their ships or vessels, to discharge their duty ; and very often, when ships and vessels come to be cleared out, in order to proceed on their respective voyages, the seamen refuse to proceed with them, without coming to new agreements for increasing their wages, and many of them will leave their ships and vessels, and not proceed on their voyages, which puts the owners of such ships and vessels to great trouble and charges to get other sailors or mariners in their stead, and often is a means to overset the voyages of such ships and vessels, to the great prejudice of the owners and freighters of the goods on board the said ships and vessels ; and yet such seamen and mariners, after they have committed such offences and disorders, will bring actions against the owners or masters of the said ships and vessels for the recovery of their wages, from the time of their shipping themselves unto the time they quit the said ships and vessels : And whereas many of the said seamen and mariners will neglect their duty when on board at sea, and desert their ships and vessels in foreign parts, which puts the said owners of ships and vessels to very great difficulties and expences, to get others in their stead, to bring their ships and vessels home ; and afterwards such seamen and mariners insist on recovering their wages, notwithstanding their voluntary desertion ; all which is a great discouragement to trade and navigation : Therefore, in order to prevent such practices for the future, may it please your Majesty that it may be enacted, *And be it Enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same,* That from and after the twenty-fourth day of June, one thousand seven hundred and twenty-nine, it shall not be lawful for any master or commander of any ship or vessel bound to parts beyond the seas, to carry any seamen or mariner, except his apprentice or apprentices, to sea, from the port or place where he or they were entered, or shipt, to proceed on any voyage to parts beyond the seas, without first coming to an agreement or contract with such seamen or mariners for their wages, which agreement or agreements shall be made in writing, declaring what wages each seaman or mariner is to have respectively during the whole voyage, or for so long time as he or they shall ship themselves for ; and also to express in the said agreement or contract the voyage, for which such seamen or mariner was shipt, to perform the same ; and in case any master or commander of any ship or vessel shall carry out any seaman or mariner, except his apprentice or apprentices, upon any voyage to parts beyond the seas, without first entering into such agreement or contract, as aforesaid, and he and they signing the same, such master or commander shall forfeit

No masters of ships to proceed on a voyage without agreeing with the mariners for wages, Apprentices excepted.

on forfeiture of s^l. for each mariner.

and pay the sum of five pounds for every such seaman or mariner, which he shall carry to sea, without entering into such agreement in writing, as aforesaid, to the use of Greenwich hospital, to be recovered upon information on the oath of one or more witness or witnesses, before any one or more of his Majesty's justice or justices of the peace, who are hereby authorized and required to issue out his or their warrant or warrants to bring before him or them such master or commander of any such ship or vessel; and in case he or they refuse to pay such penalty or forfeiture, as aforesaid, to grant his or their warrant or warrants, to levy the same by distress and sale of the offender's goods; and, in case no distress can be found, to commit the offender or offenders to the common goal of the city, county, town, or place, there to remain until he or they shall pay the same.

And be it further Enacted, That if any seaman or mariner enter, or ship himself on board any merchant ship or vessel, on any intended voyage for parts beyond the seas, he and they so entering themselves, as aforesaid, shall, and they are hereby obliged to sign such agreement or contract within three days after he or they shall have entered themselves on board any ship or vessel, in order to proceed on any voyage, as aforesaid; which agreement, or agreements, or contracts, after the signing thereof, shall be conclusive and binding to all parties, for and during the time or times so agreed or contracted for, to all intents and purposes, any custom or usage to the contrary in any wise notwithstanding.

Mariners to sign the agreement.

And be it Enacted and Declared by the authority aforesaid, That in case any seaman or mariner shall desert, or refuse to proceed on the voyage on board any ship or vessel, bound to parts beyond the seas, as aforesaid, or that shall desert from the ship or vessel, to which he or they shall belong, in parts beyond the seas, after he or they shall have signed such contract or agreement, he or they shall forfeit to the owners of such ship or vessel the wages which shall be due to him or them at the time of his or their deserting from such ship or vessel, or obstinately refusing to proceed on such voyage.

Penalty on mariners deserting.

And be it further Enacted, That in case any such seaman or mariner shall desert, or absent himself from any such ship or vessel, after he or they have entered into, and signed such contract or agreement to proceed upon any voyage to parts beyond the seas, as aforesaid, upon application made to any of his Majesty's justices of the peace, within their respective jurisdictions, by the master or commander, owner or owners, or other person or persons having charge of the said ship or vessel, to which such seaman or mariner did belong, it shall and may be lawful for such justice or justices, and they are hereby required to issue forth his or their warrant or warrants to apprehend such seaman or mariner; and in case he or they shall refuse to proceed on the voyage, for which he or they entered into contract or agreement to perform, as aforesaid, and shall not give a sufficient reason for such refusal, to the satisfaction of such justice or justices, then to commit such seaman or mariner to the house of correction, there to

Justices of the peace may commit deserters to the house of correction.

be kept to hard labour not exceeding thirty days, nor less than fourteen days, any thing to the contrary notwithstanding.

Penalty on mariners absenting from the ship without leave.

And be it Enacted by the authority aforesaid, That in case any seaman or mariner shall absent himself from the ship or vessel, to which he shall belong, without leave from the master or commander, or other chief officer, having the charge of such ship or vessel, every such seaman or mariner shall, for every such day's absence, forfeit two days pay to the use of Greenwich hospital, to be recovered, applied, and disposed of, as is herein after directed by this act.

Penalty for leaving the ship, before discharged.

And whereas seamen and mariners, after their ships arrival at their unlivering port in Great-Britain, oft times leave the ships and vessels before they are unladen, or before the said seamen and mariners are discharged by the masters or commanders of such ships and vessels; in order to prevent such practices for the future, *Be it further Enacted by the authority aforesaid,* That in case any seaman or mariner, not entering into the service of his Majesty, his heirs and successors, shall leave such ship or vessel, to which he or they belong, before he or they shall have a discharge in writing from the master or commander, or other person having the charge of such ship or vessel, he or they so leaving such ship or vessel shall forfeit one month's pay, to be recovered, applied, and disposed of, as is herein after directed.

Masters to pay mariners wages in 30 days after coming home.

And be it further Enacted by the authority aforesaid, That upon the arrival of any ship or vessel into Great-Britain, from parts beyond the seas, the masters or commanders of such ships or vessels shall be, and they are hereby obliged to pay the seamen and mariners belonging to such ships or vessels their wages, if demanded, in thirty days after the said ships or vessels being entered at the custom-house, except in case where a covenant shall be entered into to the contrary, or at the time the said seamen and mariners shall be discharged, which shall first happen, if demanded, deducting out of such wages the penalties and forfeitures by this act imposed, under the penalty of paying to each seaman or mariner that shall be unpaid, contrary to the intent and meaning of this act, twenty shillings over and above the wages that shall be due to each person, to be recovered by the same means and methods, as the wages may be recovered; and such payment of wages as aforesaid shall be good and valid in law, notwithstanding any action, bill of sale, attachment, or incumbrance whatsoever.

In case of suit for wages, master obliged to produce the agreement.

And be it further Enacted, That no seaman or mariner by entering into or signing such contract or agreement as aforesaid, shall be deprived of, or hindered from using any means or methods for the recovery of wages against any ship, the master or owners thereof, which he may now lawfully make use of, and that in all cases where it shall or may be necessary that the contract or agreement in writing aforesaid should be produced in court, no obligation shall lie on any seaman or mariner to produce the same, but on the master, owner, or owners of the ship, for which the wages shall be demanded; and no seaman or mariner shall fail in any suit, action, or process for recovery of wages for want of such

agreement or contract being produced, any law, usage, or custom to the contrary notwithstanding.

And be it further Enacted, That the masters, or commanders, or owners of any ships or vessels shall, and they hereby have full power to deduct, out of the wages of any seaman or mariner, all the penalties and forfeitures to be incurred by this act, and to enter them in a book or books to be kept for that purpose, and to make oath, if required, to the truth thereof; which book or books shall be signed by the said master or commander of each ship or vessel respectively, and two or more principal officers belonging to such ships or vessels, setting forth that the penalties and forfeitures contained in such book or books are the whole penalties and forfeitures stopt from any seaman or mariners during the whole voyage; which penalties and forfeitures (except the forfeiture of wages to the owners on the desertion of any seaman or mariner, or on refusing to proceed on the voyage) shall go to, and be applied to the use of Greenwich hospital, and not otherwise, to be paid and accounted for by the masters and commanders of ships and vessels coming from parts beyond the seas, to the same officer or officers, at any port or place, who collects the six pence per month, deducted out of seamens wages, for the use of the said hospital; which officer shall have, and hereby hath, full power to administer an oath to every commander or master respectively touching the truth of such penalties and forfeitures, to be paid, applied, and disposed of, as aforesaid.

Masters to deduct out of seamens wages all penalties due to Greenwich hospital.

And be it further Enacted, That in case any masters, or commanders, or owners of any ships or vessels, shall deduct out of the wages of any seamen or mariners, any of the penalties and forfeitures, which by this act are directed to be deducted, and applied to and for the use of Greenwich hospital, and shall not pay the money so deducted to some officer or officers, who collect the six pence per month, deducted out of seamens wages, for the use of the said hospital, in the port or place where such deduction shall be made, within three months after such deduction, every person so neglecting to pay the money deducted, as aforesaid, shall forfeit and pay treble the value thereof to the use of the said hospital; which, together with the money deducted, as aforesaid, shall and may be recovered by the same means and methods, as any penalties and forfeitures for not duly paying the said six pence per month can or may be recovered.

Forfeitures to be paid to the hospital within 3 months.

And be it further Enacted, That this act shall be deemed and taken to be a publick act; and all judges and justices are hereby obliged to take notice of it as such, without special pleading the same.

Publick act.

Provided, That nothing in this act contained shall extend, or be construed to extend, to debar any seaman or mariner belonging to any merchant ship or vessel, from entering, or being entered into, the service of his Majesty, his heirs, and successors, on board any of his or their ships or vessels; nor shall such seaman or mariner, for such entry, forfeit the wages due to him, during the term of his service in such merchant ship or vessel; nor shall such entry be deemed a desertion.

Act not to debar seamen from entering into his Majesty's service.

Statute of 7&8 Wm. 3. cap. 22. An Act for preventing Frauds, and regulating Abuses in the Plantation Trade.

Preamble.

Whereas notwithstanding divers acts made for the encouragement of the navigation of this kingdom, and for the better securing and regulating the plantation trade, more especially one act of parliament made in the twelfth year of the reign of the late King Charles the second, intituled, An act for increasing of shipping and navigation, another act made in the fifteenth year of the reign of his said late Majesty, intituled, An act for the encouragement of trade, another act made in the two and twentieth and three and twentieth years of his said late Majesty's reign, intituled, An act to prevent the planting of Tobacco in England, and for regulating the plantation trade, another act made in the twenty-fifth year of the reign of his said late Majesty, intituled, An act for the encouragement of the Greenland and Eastland trades, and for the better securing the plantation trades, great abuses are daily committed to the prejudice of the English navigation, and the loss of a great part of the plantation trade to this kingdom, by the artifice and cunning of ill disposed persons :

II. For remedy thereof for the future, *Be it Enacted, and it is hereby Enacted and Ordained by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in parliament assembled, and by the authority of the same,* That after the five and twentieth day of March, one thousand six hundred ninety-eight, no goods or merchandizes whatsoever shall be imported into or exported out of any colony or plantation, to his Majesty in Asia, Africa or America, belonging, or in his possession, or which may hereafter belong unto, or be in the possession of his Majesty, his heirs or successors, or shall be laden in, or carried from any one port or place in the said colonies or plantations, to any other port or place in the same, the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, in any ship or bottom, but what is or shall be of the built of England, or of the built of Ireland, or the said colonies or plantations, and wholly owned by the people thereof, or any of them, and navigated with the masters, and three fourths of the mariners of the said places only (except such ships only as are or shall be taken prize, and condemnation thereof made in one of the courts of admiralty in England, Ireland, or the said colonies or plantations, to be navigated by the master and three fourths of the mariners English, or of the said plantations, as aforesaid, and whereof the property doth belong to English men : And also except for the space of three years such foreign built ships as shall be employed by the commissioners of his Majesty's navy, for the time being, or upon contract with them, in bringing only masts, timber, and other naval stores for the King's service from his Majesty's colonies or plantations to this kingdom, to be navigated, as aforesaid, and whereof the property doth belong to English men) under pain of forfeiture of ship and goods, one third part whereof to be to the use of his Majesty, his heirs

After 25 March 1698, no goods to be imported or exported out of any English plantations, &c. but in English built ships.

Except prize ships.

And except foreign built ships as shall be employed by the commissioners of the navy.

Vide the act of union, 5 A. c. 8.

Under forfeiture of ship and goods.

and successors, one third part to the governor of the said colonies or plantations, and the other third part to the person who shall inform and sue for the same, by bill, plaint or information, in any of his Majesty's courts of record at Westminster, or in any court of his Majesty's plantations, where such offence shall be committed.

How & where to be recover'd.

III. *And be it further Enacted by the Authority aforesaid,* That (from and after the said five and twentieth day of March) goods or merchandizes may be exported or imported to and from this kingdom, the colonies, plantations and places aforesaid, in any such ships as are, or shall be taken as prize, and whereof condemnation shall be made in one of the courts of admiralty aforesaid, and shall be navigated, as aforesaid, by the master, three fourths of the mariners English, and whereof the property shall belong to English men, and also masts, timber, and other naval stores for his Majesty's service, for the space of three years, may be imported from his Majesty's colonies or plantations to this kingdom, in such foreign built ships as shall be employed by the commissioners of the navy for the time being, or by contract with them, any law or statute to the contrary notwithstanding.

Three years time after the said 25 March, allowed for ships taken and condemned as prize.

And for foreign ships to import masts, &c. employed by the commissioners of the navy.

IV. And whereas by one clause of the said act, passed in the twelfth year of the reign of the late King Charles the second, intituled, An act for the encouraging and increasing of shipping and navigation, all Governors of his Majesty's colonies or plantations in Asia, Africa, or America, are required to take a solemn oath to do their utmost, that every the clauses therein before mentioned, and all the matters and things therein contained shall be punctually and *bona fide* observed, according to the true intent and meaning thereof, so that the said Governors are not strictly obliged by that oath to put in execution the subsequent clauses of the said act, although some of the clauses following are of great importance, and tend greatly to the security of the plantation trade: And whereas divers other good laws have been made for the better regulating and securing the plantation trade since the said last mentioned act; *Be it further Enacted by the authority aforesaid,* That all the present Governors or commanders in chief, of any English colonies or plantations, shall before the five and twentieth day of March, one thousand six hundred ninety-seven, and all who hereafter shall be made Governors or commanders in chief of the said colonies or plantations, or any of them, before their entrance into their government, shall take a solemn oath to do their utmost, that all the clauses, matters and things contained in the before recited acts of parliament heretofore passed, and now in force, relating to the said colonies and plantations, and that all and every the clauses contained in this present act, be punctually and *bona fide* observed, according to the true intent and meaning thereof (which oath shall be taken before such person or persons as shall be appointed by his Majesty, his heirs and successors, who are hereby authorized to administer the same) so far as appertains unto the said Governors or commanders in chief respectively; and upon complaint and proof made before his Majesty, his heirs and successors, or such as shall be by him or them thereunto author-

12 Car. 2. c. 8.

All Governors before their entrance into their government, shall take a solemn oath to observe the acts of trade, &c.

Upon neglect, to be removed from their government, and forfeit 1000 l.

ized and appointed, by the oath of two or more credible witnesses, that any the said Governors or commanders in chief, have neglected to take the said oath at the times aforesaid, or have been wittingly or willingly negligent in doing their duty accordingly, the said Governor so neglecting or offending, shall be removed from his government, and forfeit the sum of one thousand pounds sterling.

15 Car. 2. c. 7.

Naval officers in the plantations to give security to the commissioners of the customs in England.

V. And whereas by the said act of the fifteenth of King Charles the second, intituled, An act for the encouragement of trade, the Governors of the plantations are impowered to appoint an officer for the performance of certain things in the said act mentioned, which said officer is there commonly known by the name of the naval officer : And whereas through the connivance or negligence of the persons so appointed by the Governors of the said plantations, divers frauds and abuses are or have been committed ; *Be it therefore Enacted by the authority aforesaid*, That all and every the officers already appointed, shall within two months after notice of this act in the respective plantations, or as soon as conveniently it may be, give security to the commissioners of the customs in England, for the time being, or such as shall be appointed by them, for his Majesty's use, for the true and faithful performance of their duty ; and all and every person or persons who shall hereafter be appointed to the said office or employment, shall within two months, or as soon as conveniently it may be, after his or their entrance upon the said office or employment, give sufficient security to the commissioners of the customs, as aforesaid, for his Majesty's use, for the true and faithful performance of his or their duty ; and in default thereof, the person or persons neglecting or refusing to give such security, shall be disabled to execute the said office or employment ; and until such security given, and the person appointed to the said office or employment, be approved by the commissioners of the customs, as aforesaid, the respective Governor or Governors, shall be answerable for any the offences, neglects, or misdemeanours of the person or persons so by him or them appointed.

in default disabled.

Until such security given, &c. Governors to be answerable for any offence, neglect, &c.

VI. And for the more effectual preventing of frauds, and regulating abuses in the plantation trade in America, *Be it further Enacted by the authority aforesaid*, That all ships coming into, or going out of any of the said plantations, and lading or unlading any goods or commodities, whether the same be his Majesty's ships of war or merchants ships, and the masters and commanders thereof, and their ladings, shall be subject and liable to the same rules, visitations, searches, penalties and forfeitures, as to the entering, lading, or discharging their respective ships and ladings, as ships and their ladings, and the commanders and masters of ships, are subject and liable unto in this kingdom, by virtue of an act of parliament made in the fourteenth year of the reign of King Charles the second, intituled, An act for preventing frauds, and regulating abuses in his Majesty's customs ; and that the officers for collecting and managing his Majesty's revenue, and inspecting the plantation trade in any of the said plantations, shall have the same powers and authorities, for visiting and searching

All ships lading or unlading goods in the American plantations, shall be subject to the same rules, searches, &c. as they are in England.

14 Car. 2. c. 11.

And the officers in the plantations, to have the same power there as officers of the customs in England.

of ships, and taking their entries, and for seizing and securing, or bringing on shore any of the goods prohibited to be imported or exported into or out of any the said plantations, or for which any duties are payable, or ought to have been paid by any of the before mentioned acts, as are provided for the officers of the customs in England by the said last mentioned act, made in the fourteenth year of the reign of King Charles the second, and also to enter houses, or ware-houses, to search for, and seize any such goods; and that all the wharfingers and owners of keys and wharfs, or any lightermen, bargemen, watermen, porters, or other persons, assisting in the conveyance, concealment, or rescue of any of the said goods, or in the hindering, or resistance of any of the said officers in the performance of their duty, and the boats, barges, lighters, or other vessels employed in the conveyance of such goods, shall be subject to the like pains, and penalties, as are provided by the same act made in the fourteenth year of King Charles the second, in relation to prohibited or uncustomed goods in this kingdom; and that the like assistance shall be given to the said officers in the execution of their office, as by the said last mentioned act is provided for the officers in England; and also, that the said officers shall be subject to the same penalties, and forfeitures, for any corruptions, frauds, connivances, or concealments, in violation of any the before mentioned laws, as any officers of the customs in England are liable to, by virtue of the said last mentioned act; and also that in case any officer or officers in the plantations shall be sued, or molested, for any thing done in the execution of their office, the said officer shall and may plead the general issue, and shall give this or other custom acts in evidence, and the judge to allow thereof, have and enjoy the like privileges and advantages, as are allowed by law to the officers of his Majesty's customs in England.

Wharfingers,
Lightermen, &c.
resisting the
officers.

Penalties.

14 Car. 2. c. 11.

The said officers
shall be subject
to the same pen-
alties as the
officers of the
customs in En-
gland.

General issue.

VII. *And it is hereby further Enacted,* That all the penalties and forfeitures before mentioned, not in this act particularly disposed of, shall be one third part to the use of his Majesty, his heirs and successors, and one third part to the Governor of the colony or plantation where the offence shall be committed, and the other third part to such person or persons as shall sue for the same, to be recovered in any of his Majesty's courts at Westminster, or in the kingdom of Ireland, or in the court of admiralty held in his Majesty's plantations respectively, where such offence shall be committed, at the pleasure of the officer, or informer, or in any other plantation belonging to any subject of England, wherein no essoign, protection, or wager of law shall be allowed; and that where any question shall arise concerning the importation, or exportation of any goods into or out of the said plantations, in such case the proof shall lie upon the owner or claimer, and the claimer shall be reputed the importer or owner thereof.

Forfeitures how
to be disposed.

How and where
to be recovered.

Any question
arising, the proof
to lie on the
owner or claimer.

VIII. And whereas in some of his Majesty's American plantations, a doubt or misconstruction has arisen upon the before mentioned act, made in the five and twentieth year of the reign of King Charles the second, whereby certain duties are laid upon the commodities therein enumerated (which by law may be trans-

25 Car. 2.

12, 22, & 23
Car. 2.

Notwithstanding
the payment of
the innumera-
ted duties, no goods
to be shipt 'till
security is
given,

Vide the act of
union, 5 A. c. 8.

under forfeiture
of ship and
goods.

Laws made in
the plantations
repugnant to the
laws of En-
gland, void.

Abuses com-
mitted by false
& counterfeit
certificates &c.

On suspicion of
false certificate,
the Governor,
&c. to take fresh
security.

Vide the Act of
union, 5 A. cap.
8.

ported from one plantation to another for the supply of each others wants) as if the same were by the payment of those duties in one plantation, discharged from giving the securities intended by the aforesaid acts, made in the twelfth, two and twentieth and three and twentieth years of the reign of king Charles the second, and consequently be at liberty to go to any foreign market in Europe, without coming to England, Wales, or Berwick: *It is hereby further Enacted and Declared*, That notwithstanding the payment of the aforesaid duties in any of the said plantations, none of the said goods shall be shipt, or laden on board, until such security shall be given as is required by the said acts, made in the twelfth, two and twentieth, and three and twentieth years of the reign of king Charles the second, to carry the same to England, Wales, or Berwick, or to some other of his Majesty's plantations, and so *toties quoties* as any of the said goods shall be brought to be reshiped or laden in any of the said plantations, under the penalty and forfeiture of ship and goods, to be divided and disposed of, as aforesaid.

IX. *And it is further Enacted and Declared by the authority aforesaid*, That all laws, by-laws, usages, or customs, at this time, or which hereafter shall be in practice, or endeavoured, or pretended to be in force or practice in any of the said plantations, which are in any wise repugnant to the before mentioned laws, or any of them, so far as they do relate to the said plantations, or any of them, or which are any ways repugnant to this present act, or to any other law hereafter to be made in this kingdom, so far as such law shall relate to, and mention the said plantations, are illegal, null and void, to all intents and purposes whatsoever.

X. And whereas great frauds and abuses have been committed by Scotchmen, and others, in the plantation trade, by obtruding false and counterfeit certificates upon the Governor and officers in the plantations, appointed by his Majesty's commissioners of the customs in England, of having given security in this kingdom, to bring the ladings of plantation goods to England, Wales, or town of Berwick upon Tweed, as also certificates of having discharged their lading of plantation goods in this kingdom, pursuant to securities taken in the plantation, and also cockets or certificates, of having taken in their ladings of European goods in England, Wales, or Berwick; by means whereof they may carry the goods of Scotland, and other places of Europe, without shipping or lading the same in England, Wales, or Berwick, to his Majesty's plantations, and also carry the goods of the plantations directly to Scotland, or to any market in Europe, without bringing the same into England, Wales, or town of Berwick upon Tweed: *It is hereby further Enacted*, That in such cases where the governor or officers appointed by the commissioners of the customs in the plantations shall have reasonable ground of suspicion, that such certificates are false or Counterfeit (that is to say) that the certificate of having given security in England is false, in such case the governor or officers appointed by the commissioners of the customs shall require, and take sufficient security there for the discharge of the plantation lading in England, Wales, or town of

Berwick upon Tweed; and in such case where there shall be cause to suspect that the certificates of having discharged her lading of plantation goods in this kingdom is false or counterfeit, the governor or officers aforesaid shall not cancel or vacate the security given in the plantation, until he or they shall be informed from the commissioners of the customs in England, that the matter of the said certificate is true; and if any person or persons shall counterfeit, rase, or falsify any cocket, certificate, return, or permit, for any vessel, or goods, or shall knowingly or willingly make use thereof, such person or persons shall forfeit the sum of five hundred pounds, to be recovered and disposed of, as aforesaid, and the cocket, certificate, return, or permit, so counterfeited, rased or falsified, shall be invalid, and of no effect.

Certificate, &c. rased, or falsified, forfeits 500 l. and a certificate, &c. invalid.

XI. And for the better executing the several acts of parliament relating to the plantation trade, *Be it Enacted by the authority aforesaid*, That the lord treasurer, commissioners of the treasury, and the commissioners of the customs in England, for the time being, shall and may constitute and appoint such and so many officers of the customs in any city, town, river, port, harbour, or creek, of or belonging to any of the islands, tracts of land and proprieties, when, and as often as to them shall seem needful: *Be it further also Enacted*, That upon any actions, suits, and informations that shall be brought, commenced, or entred in the said plantations, upon any law, or statute concerning his Majesty's duties, or ships, or goods, to be forfeited by reason of any unlawful importations, or exportations, there shall not be any jury, but of such only as are natives of England, or Ireland, or are born in his Majesty's said plantations; and also that upon all such actions, suits, and informations, the offences may be laid or alledged to be in any colony, province, county, precinct, or division of any of the said plantations where such offences are alledged to be committed, at the pleasure of the officer or informer.

The treasury, and commissioners of the customs in England, to appoint officers in the plantations.

Juries to consist of natives of England, Ireland, or the said plantations.

Vide the act of union, 5 A. cap. 8.

XII. Provided always, that all places of trust in the courts of law, or what relates to the treasury of the said islands, shall, from the making of this act, be in the hands of the native-born subjects of England, or Ireland, or of the said islands.

Vide ditto.

Places of trust to be in the natives of England, &c.

XIII. And whereas by the said act made in the two and twentieth and three and twentieth years of the reign of his said late Majesty King Charles the second, the bonds required to be given in the plantations by virtue of the said act for encouraging and increasing of shipping and navigation, are altered, and the word Ireland to be left out of the condition of all such bonds; and by the said act, it is enacted, and provided, That for such ships or vessels coming from other ports or places, to any of the said plantations, which by the said act for encouraging and increase of shipping were permitted to trade there, the Governors of such English plantations should, before the said ship or vessel should be permitted to load on board any of the commodities in the said act particularly mentioned, take bond in manner, and to the value mentioned and directed in the above-mentioned act for encouraging and increase of shipping and navigation, for each respective ship or vessel, that such ship or vessel shall carry all the aforesaid

22, 23, Car. 2.

14 Car. 2.

Bonds in the plantations, sureties to be persons of known ability.

Certificates to discharge the said bonds to be produced within 18 months.

Vide the act of union, 5 A. cap. 8.

No plantation goods to be landed in Ireland,

unless first landed in England.

Forfeiture.

Great-Britain, Vide the act of union, 5 A. cap. 8.

Proviso for Ships stranded in Ireland.

goods that should be laden on board in the said ship, to some other of his Majesty's English plantations, or to England, Wales, or town of Berwick upon Tweed; but because no provision hath hitherto been made for the returning and producing certificates within some reasonable limited time, of the landing and discharging such goods, according to the condition of the said bonds; and also, because many times it hath happened, that the sureties taken in the said bonds, have been persons not resident in the said plantations, but of uncertain and unknown abodes, the said bonds have proved ineffectual to the good purposes intended by the said acts: *Be it therefore Enacted by the authority aforesaid,* That in all such bonds to be hereafter given or taken in the said plantations, the sureties therein named, shall be persons of known residence and ability in the said plantations, for the value mentioned in the said bonds; and that the condition of the said bonds shall be within eighteen months after the date thereof (the danger of the seas excepted) to produce certificates of having landed and discharged the goods therein mentioned, in one of his Majesty's said plantations, or in England, Wales, or Berwick upon Tweed, otherwise such bond, or copies thereof, being attested under the hand and seal of the Governor, or commander in chief to whom such bonds were given, shall be in force, and allowed of in any court in England, Ireland, or the plantations, as if the original were produced in court by the prosecutor.

XIV. And whereas several ships and vessels laden with tobacco, sugars, and other goods, of the growth and product of his Majesty's plantations in America, have been discharged in several ports of the kingdoms of Scotland, and Ireland, contrary to the laws and statutes now in being, under pretence that the said ships and vessels were driven in thither by stress of weather, or for want of provisions, and other disabilities, could not proceed on their voyage: For remedy whereof, *Be it Enacted by the authority aforesaid,* That from and after the first day of December, one thousand six hundred ninety-six, it shall not be lawful, on any pretence whatsoever, to put on shore in the said kingdoms of Scotland, or Ireland, any goods or merchandize of the growth or product of any of his Majesty's plantations aforesaid, unless the same have been first landed in the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, and paid the rates and duties wherewith they are chargeable by law, under the penalty of the forfeiture of the ship and goods, three fourths, without composition, to his Majesty, his heirs and successors, and the other fourth to him or them that shall sue for the same.

XV. Provided nevertheless, That if any ship or vessel, laden as aforesaid, shall by stress of weather be stranded, or by reason of leakiness or other disability, shall be driven into any port or place within the kingdom of Ireland, and shall not be able to proceed on her voyage, then, and in such case only the said goods and merchandizes may be permitted to be put on shore, but shall be delivered into the custody and possession of the collector, or chief officer of the customs of such port or place where the said ship shall be so stranded or driven into, there to remain until the

said goods and merchandize shall, at the charge of the owner thereof, be put on board some other ship or vessel, in order to be transported and carried to some other port or place within the said kingdom of England, dominion of Wales, or town of Berwick upon Tweed, the said officer first taking good and sufficient security for the delivery of the same, according to the true intent and meaning of this act.

XVI. *And be it further Enacted by the authority aforesaid,* That all persons and their assignees, claiming any right or propriety in any islands, or tracts of land upon the continent of America, by charter, or letters patents, shall not at any time hereafter alien, sell or dispose of any of the said islands, tracts of land, or proprieties, other than to the natural born subjects of England, Ireland, dominion of Wales, or town of Berwick upon Tweed, without the licence and consent of his Majesty, his heirs and successors, signified by his or their order in council first had and obtained; and all Governors nominated and appointed by any such persons, or proprietors, who shall be entitled to make such nomination, shall be allowed and approved of by his Majesty, his heirs and successors, as aforesaid, and shall take the oaths enjoined by this or any other act, to be taken by the Governors, or commanders in chief, in other his Majesty's colonies and plantations, before their entring upon their respective governments, under the like penalty his Majesty's governors and commanders in chief are by the said acts liable to.

Charter governments how and to whom they may be sold.

The Governors to be approved by his Majesty, and take oaths.

Penalty.

XVII. And for a more effectual prevention of frauds which may be used to elude the intention of this act, by colouring foreign ships under English names, *Be it further Enacted by the authority aforesaid,* That from and after the five and twentieth day of March, which shall be in the year of our Lord one thousand six hundred ninety-eight, no ship or vessel whatsoever shall be deemed, or pass as a ship of the built of England, Ireland, Wales, Berwick, Guernsey, Jersey, or of any of his Majesty's plantations in America, so as to be qualified to trade to, from, or in any of the said plantations, until the person or persons claiming property in such ship or vessel, shall register the same as followeth, that is to say, If the ship, at the time of such register, doth belong to any port in England, Ireland, Wales, or to the town of Berwick upon Tweed, then proof shall be made upon oath of one or more of the owners of such ship or vessel, before the collector and comptroller of his Majesty's customs in such port; or if at the time of such register the ship belong to any of his Majesty's plantations in America, or to the islands of Guernsey, or Jersey, then the like proof to be made before the Governor, together with the principal officer of his Majesty's revenue residing on such plantation or island; which oath the said Governors and officers of the customs respectively, are hereby authorized to administer in the tenor following, viz.

No ship to trade to and from the plantations, till registered.

Great-Britain, vide the act of union, 5 A c 8.

Where to be registered.

Jurat *A. B.* That the ship _____ Name _____ of _____ Port _____ whereof _____ Masters Name _____ is at present master, being a _____ Kind of built _____ of _____ Burthen _____

The oath in *hac Verba.*

tons, was built at ——— Place where ——— in the year ———
Time when ——— and that ——— Owners Name ——— of
——— and ——— of, &c. are at present owners thereof, and that
no foreigner, directly or indirectly, hath any share, or part, or
interest therein.

The oath to be
delivered to the
master, and a
duplicate to be
transmitted to
the commis-
sioners of the
customs.

Vide the act of
union, 5 A. cap.
8. Art.

XVIII. Which oath being attested by the Governor or custom-officer respectively, who administred the same, under their hands and seals, shall, after having been registred by them, be delivered to the master of the ship, for the security of her navigation ; a duplicate of which register shall be immediately transmitted to the commissioners of his Majesty's customs in the port of London, in order to be entred in a general register, to be there kept for this purpose, with penalty upon any ship or vessel trading to, from, or in any of his Majesty's plantations in America, after the said five and twentieth day of March, and not having made proof of her built and property, as is here directed, that she shall be liable, and she is hereby made liable to such prosecution and forfeiture as any foreign ship (except prizes condemned in the high court of admiralty) would for trading with these plantations by this law be liable to.

Ships taken &
condemned as
prize shall be
specially
registred.

XIX. Provided always, That all such ships as have been or shall be taken at sea by letters of mart or reprisal, and condemnation thereof made in the high court of admiralty of England, as lawful prize, shall be specially registred, mentioning the capture and condemnation instead of the time and place of building ; with proof also upon oath, that the entire property is English, before any such prize shall be allowed the privilege of an English built ship, according to the meaning of this act.

This Act not to
extend to fisher-
boats, hoys, &c.
but only to such
ships as cross
the seas.

XX. Provided also, That nothing in this act shall be construed to require the registering any fisher-boats, hoys, lighters, barges, or any open boats or other vessels (though of English or plantation built) whose navigation is confined to the rivers or coasts of the same plantation or place where they trade respectively, but only of such of them as cross the seas to or from any of the lands, islands, places or territories in this act before recited, or from one plantation to another.

Ships names
alter'd, to be
registred *de
novo*.

XXI. *And be it further Enacted by the Authority aforesaid,* That no ships name registred, shall be afterwards changed without registering such ship *de novo*, which is hereby required to be done upon any transfer of property to another port, and delivering up the former certificate to be cancelled, under the same penalties, and in the like method as is herein before directed ; and that in case any alteration of property in the same port, by the sale of one or more shares in any ship after registering thereof, such sale shall always be acknowledged by indorsement on the certificate of the register before two witnesses, in order to prove, that the entire property in such ship remains to some of the subjects of England, if any dispute arises concerning the same.

An Act for the more easy Recovery of Debts in His Majesty's
Plantations and Colonies in America. Statute 5. of
Geo. 2.

Whereas his Majesty's subjects, trading to the British plantations in America, lie under great difficulties, for want of more easy methods of proving, recovering, and levying debts due to them, than are now used in some of the said plantations; and whereas it will tend very much to the retrieving of the credit formerly given by the trading subjects of Great-Britain to the natives and inhabitants of the said plantations, and to the advancing of the trade of this kingdom thither, if such inconveniences were remedied; May it therefore please your Majesty that it may be Enacted, *and be it Enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same,* That from and after the twenty-ninth day of September, which shall be in the year of our Lord one thousand seven hundred and thirty-two, in any action of suit then depending, or thereafter to be brought in any court of law or equity in any of the said plantations, for or relating to any debt, or account, wherein any person residing in Great-Britain shall be a party, it shall and may be lawful to and for the plaintiff, or defendant, and also to and for any witness, to be examined or made use of in such action or suit, to verify or prove any matter or thing by affidavit or affidavits in writing upon oath, or in case the person making such affidavit be one of the people called Quakers, then upon his or her solemn affirmation made before any mayor, or other chief magistrate of the city, borough, or town corporate in Great-Britain, where, or near to which the person making such affidavit or affirmation shall reside, and certified and transmitted under the common seal of such city, borough, or town corporate, or the seal of the office of such mayor, or other chief magistrate, which oath and solemn affirmation every such mayor and chief magistrate shall be, and is hereby authorized and empowered to administer; and every affidavit or affirmation so made, certified and transmitted, shall in all such actions and suits be allowed to be of the same force and effect as if the person or persons making the same upon oath, or solemn affirmation, as aforesaid, had appeared and sworn or affirmed the matters contained in such affidavit or affirmation *viva voce* in open court, or upon a commission issued for the examination of witnesses, or of any party in any such action or suit respectively, provided that in every such affidavit and affirmation there shall be expressed the addition of the party making such affidavit or affirmation, and the particular place of his or her abode.

And be it further Enacted by the authority aforesaid, That in all suits now depending, or hereafter to be brought in any court of law or equity by or in behalf of his Majesty, his heirs and successors, in any of the said plantations, for or relating to any debt or account, that his Majesty, his heirs and successors, shall and may prove his and their debts and accounts, and examine his or their

Preamble.

After Sept. 29, plantation debts may be proved here on oath before a chief magistrate.

Debts to his Majesty may be proved in the same manner.

witness or witnesses by affidavit or affirmation in like manner as any subject or subjects is or are impowered or may do by this present act.

Penalty on false oath, or affirmation.

Provided always, and it is hereby further Enacted, That if any person making such affidavit upon oath, or solemn affirmation as aforesaid, shall be guilty of falsly and wilfully swearing or affirming any matter or thing in such affidavit or affirmation, which, if the same had been sworn upon an examination in the usual form, would have amounted to wilful and corrupt perjury, every person so offending, being thereof lawfully convicted, shall incur the same penalties and forfeitures as by the laws and statutes of this realm are provided against persons convicted of wilful and corrupt perjury.

Lands, houses, Negroes, &c in the plantations liable to satisfy debts.

And be it further Enacted by the authority aforesaid, That from and after the said twenty-ninth day of September, one thousand seven hundred and thirty-two, the houses, lands, negroes, and other hereditaments, and real estates, situate or being within any of the said plantations, belonging to any person indebted, shall be liable to, and chargeable with all just debts, duties, and demands of what nature or kind soever, owing by any such person to his Majesty, or any of his subjects, and shall and may be assets for the satisfaction thereof, in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond, or other specialty, and shall be subject to the like remedies, proceedings, and process in any court of law or equity, in any of the said plantations respectively, for seizing, extending, selling, or disposing of any such houses, lands, negroes, and other hereditaments and real estates, towards the satisfaction of such debts, duties and demands, and in like manner as personal estates in any of the said plantations respectively are seized, extended, sold, or disposed of for the satisfaction of debts.

Statute 13 of Geo. 2.

An Act for the Increase of Mariners and Seamen to navigate Merchant Ships, and other trading Ships or Vessels.

Preamble.

Whereas it is necessary to give all fitting encouragement to persons to apply themselves to the sea service, and the practice of navigation, and also to foreign mariners, and seamen to engage in the British service; *Be it Enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same,* That every person herein after mentioned shall be freed and exempted from being impressed into the service of his Majesty, his heirs, or successors; (that is to say) Every person being of the age of fifty-five years, or upwards, and every person not having attained the full age of eighteen years, and every foreigner, being a mariner, seaman, or land-man, who shall serve in any merchant ship, or other trading ship or vessel, or privateer, belonging to the subjects of the crown of Great-Britain.

Persons exempted from being impressed.

And for the encouragement of able-bodied landmen to betake themselves to the sea service, *Be it further Enacted by the authority aforesaid*, That every person of what age soever he be, who shall use the sea, shall be freed and exempted from being impressed for the full space of two years, to be computed from the time of his first going to sea; and that every person, who not having before used the sea, shall bind himself apprentice to serve at sea, shall be freed and exempted from being impressed for the full space of three years, to be computed from the time of his binding himself apprentice, as aforesaid.

And for the better securing to all the persons before mentioned the benefit intended them by this act, *Be it further Enacted by the authority aforesaid*, That the Lord High Admiral of Great-Britain, or commissioners for executing the office of lord high admiral for the time being, or any three or more of them, shall, upon due proof made before him or them of the respective ages and circumstances (as the case shall happen) of any of the persons before mentioned, grant a protection to every such person to secure him from being impressed, for such time as by the true intent and meaning of this act such person is to be freed and exempted from being impressed; all which protections shall be granted without any fee or reward to be taken for the same.

Lord High Admiral, &c. to grant protections for that purpose,

without fee or reward.

An Act to encourage the Importation of Pig and Bar Iron from His Majesty's Colonies in America; and to prevent the Erection of any Mill or other Engine for Slitting or Rolling of Iron; or any Plateing Forge to work with a Tilt Hammer; or any Furnace for making Steel in any of the said Colonies.

Statute 23 of Geo. 2.

Whereas the importation of bar iron from his Majesty's colonies in America, into the port of London, and the importation of pig iron from the said colonies, into any port of Great-Britain, and the manufacture of such bar and pig iron in Great-Britain, will be a great advantage not only to the said colonies, but also to this kingdom, by furnishing the manufacturers of iron with a supply of that useful and necessary commodity, and by means thereof large sums of money, now annually paid for iron to foreigners, will be saved to this kingdom, and a greater quantity of the woollen, and other manufactures of Great-Britain, will be exported to America, in exchange for such iron so imported; *Be it therefore Enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same*, That from and after the twenty-fourth day of June, one thousand seven hundred and fifty, the several and respective subsidies, customs, impositions, rates, and duties, now payable on pig iron, made in and imported from his Majesty's colonies in America, into any port of Great-Britain, shall cease, determine, and be no longer paid; and that from and after the said twenty-fourth day

Preamble.

Pig iron made in the British colonies in America, may be imported duty free into the port of London.

of June, no subsidy, custom, imposition, rate, or duty whatsoever, shall be payable upon bar iron made in and imported from the said colonies, into the port of London ; any law, statute, or usage to the contrary thereof in any wise notwithstanding.

Penalty of exporting, or carrying the same coastwise except for the use of the King's yards.

And be it further Enacted by the authority aforesaid, That no such bar iron so imported into the port of London, shall be afterwards exported, or shall be carried coastwise to be landed at any other port or place of Great-Britain, except for the use of his Majesty's dockyards, upon pain, that all such bar iron so exported, or carried coastwise, and every ship or vessel, on board of which any such bar iron shall be so exported, or carried coastwise, shall be subject to such forfeiture and seizure, as any prohibited or uncustomed goods, or any goods clandestinely exported or imported, or any ship or vessel on board of which any such goods shall be exported or imported, are now liable by law ; and also upon pain, that every person, so exporting such bar iron, or sending the same coastwise, and the master or commander, and mariners of every ship or vessel, on board of which any such bar iron shall be so exported or carried coastwise, shall be subject to such and the like punishments and penalties as the master or commander, or mariners of any ship or vessel, laden with any prohibited or uncustomed goods, or goods clandestinely exported or imported, are now liable to by law ; and that no officer of his Majesty's customs shall sign or grant any cocquet, sufferance, transire, let-pass, warrant, or certificate whatsoever, for exporting or carrying coastwise, except for the use of his Majesty's dock yards, any such bar iron so imported into the port of London, upon pain, that every officer of his Majesty's customs, so offending, shall forfeit and pay the sum of two hundred pounds, to be sued for and recovered by action, bill, plaint, or information, in any of his Majesty's courts of record at Westminster, and to be applied, one moiety to the use of his Majesty, his heirs, and successors, and the other moiety to such person or persons as shall sue for the same, and shall also lose and forfeit his office, and be incapable of serving his Majesty, his heirs, or successors, in any office of trust or profit whatsoever ; and that if any such cocquet, sufferance, transire, let-pass, warrant, or certificate whatsoever, shall be signed or granted, the same shall be void, and of no effect whatsoever.

Officer granting any cocquet for exporting thereof,

to be fined 200l.

and to be cashiered.

The cocquet to be void.

No bar iron to be carried coastwise, unless mention be made in the certificate of the duty being paid.

And be it further Enacted by the authority aforesaid, That no bar iron whatsoever shall be permitted to be carried coastwise, unless mention be made in the certificate to be granted for that purpose, of the day on which the subsidies, customs, impositions, rates, and duties, payable upon the importation thereof, were paid, and of the name of the person or persons by whom the same were paid.

Penalty of carrying by land any such iron beyond 10 miles from London, except for the King's yards.

And it is hereby further Enacted, That no bar iron imported into the port of London, by virtue or in pursuance of this act, shall be carried or conveyed by land carriage to any place beyond ten miles from any part of the port of London, except to his Majesty's dock yards for the use of his Majesty, his heirs, and successors ; and if any person or persons shall carry and convey, or cause or procure to be carried or conveyed upon horseback, or

in any waggon, cart, or other carriage, any iron so imported, to any place beyond the limits prescribed by this act, every person so offending, shall, for every such offence, forfeit and pay the sum of twenty shillings for every hundred weight of such iron.

And, that the importers of foreign pig and bar iron, not made in and imported from the said colonies, may not, upon any pretence whatsoever, claim the exemption hereby granted; *Be it further Enacted by the authority aforesaid*, That every merchant, trader, factor, or other person, loading any pig or bar iron on board any ship or vessel in any of his Majesty's colonies in America, shall, before the clearing out of the said ship or vessel for any port of Great-Britain, make oath before the Governor or lieutenant governor, collector and comptroller of the customs, and naval officer, or any two of them (which oath every such Governor or lieutenant governor, collector, and comptroller of the customs, and naval officer, is hereby empowered and required to administer without fee or reward) that the pig or bar iron so shipped, the true weight whereof shall in such oath be expressed, was made at — within the colony of — in which oath also the name or names of the person or persons to whom the said iron shall be sold or consigned, shall be expressed; and thereupon the said Governor, lieutenant governor, collector, and comptroller of the customs, and naval officer, or any two of them, shall deliver to such merchant, trader, factor, or other person, so making oath as aforesaid, a certificate, under their hands and seal of office, of such oath having been made before them.

Oath to be made of the place where the iron was made, and to whom consigned.

Certificate thereof to be given.

And be it further Enacted by the authority aforesaid, That no person or persons importing any pig or bar iron into Great-Britain from his Majesty's colonies in America, shall import the same duty-free as aforesaid, unless such pig or bar iron shall be stamped with some mark denoting the colony or place where the same was made; and unless such person or persons shall produce such certificate to the chief officer of the customs at the port in Great-Britain where the same shall be imported; and unless oath shall be made before the said chief officer of the customs, by the master or commanding officer of the ship or vessel importing such pig or bar iron (which oath such chief officer is hereby empowered and required to administer without fee or reward) that the iron so imported is the same iron mentioned in the said certificate.

Rules to be observed in the importation of iron duty-free.

Provided always, and be it Enacted by the authority aforesaid, That all pig or bar iron imported into Great-Britain, which shall not be so stamped and certified as aforesaid, to be made in his Majesty's colonies in America, shall be subject to the payment of the same subsidies, customs, impositions, rates, and duties, to which such iron was liable before the making of this act.

Iron which is not marked, and certified as above, to pay the duties,

And be it further Enacted by the authority aforesaid, That if any Governor, lieutenant governor, collector or comptroller of the customs, naval officer, or chief officer of the customs as aforesaid, shall falsely make any such certificate, every person so offending shall, for every such offence, forfeit and pay the sum of two hundred pounds, and also forfeit and lose his office, and be incapable of serving his Majesty, his heirs and successors, in any office of

Penalty of falsly making such certificates,

trust or profit ; or if any merchant, factor, trader, and master, or commanding officer of any ship or vessel, shall falsely make any oath required by this act, every such offender shall incur the punishment inflicted by the laws of this realm for wilful and corrupt perjury ; and if any person shall knowingly counterfeit any such stamp, or shall counterfeit any such certificate, or publish the same, knowing it to be counterfeit, every such person so offending shall incur the punishment inflicted by the laws of this realm for forgery.

And, that pig and bar iron made in his Majesty's colonies in America may be further manufactured in this kingdom, *be it further Enacted by the authority aforesaid*, That from and after the twenty-fourth day of June, one thousand seven hundred and fifty, no mill or other engine for slitting or rolling of iron, or any plateing forge to work with a tilt hammer, or any furnace for making steel, shall be erected, or after such erection, continued in any of his Majesty's colonies in America ; and if any person or persons shall erect, or cause to be erected, or after such erection, continue, or cause to be continued, in any of the said colonies, any such mill, engine, forge, or furnace, every person or persons so offending, shall, for every such mill, engine, forge, or furnace, forfeit the sum of two hundred pounds of lawful money of Great-Britain.

And it is hereby further Enacted by the authority aforesaid, That every such mill, engine, forge, or furnace, so erected or continued, contrary to the directions of this act, shall be deemed a common nuisance ; and that every Governor, lieutenant governor, or commander in chief of any of his Majesty's colonies in America, where any such mill, engine, forge, or furnace, shall be erected or continued, shall, upon information to him made and given, upon the oath of any two or more credible witnesses, that any such mill, engine, forge, or furnace, hath been so erected or continued (which oath such Governor, lieutenant governor, or commander in chief, is hereby authorized and required to administer) order and cause every such mill, engine, forge, or furnace, to be abated within the space of thirty days next after such information given and made as aforesaid ; and if any Governor, lieutenant governor, or commander in chief, shall neglect or refuse so to do, within the time herein before limited for that purpose, every such Governor, lieutenant governor, or commander in chief, so offending, shall, for every such offence, forfeit the sum of five hundred pounds of lawful money of Great-Britain, and shall from thenceforth be disabled to hold or enjoy any office of trust or profit under his Majesty, his heirs or successors.

And it is hereby further Enacted by the authority aforesaid, That the several penalties and forfeitures by this act inflicted for falsely making any stamp or certificate, herein before directed, or for erecting or continuing any mill, engine, plateing forge, or furnace prohibited by this act, or for refusing or neglecting to abate the same, shall and may be sued for and recovered by action, bill, plaint, or information, in any of his Majesty's courts of record at Westminster, or in the court of exchequer in Scotland, or in any of the courts of record in his Majesty's colonies in America re-

or oaths,

and of counterfeiting the stamps, or certificates.

No mill for slitting of iron ; or plateing forge ; or furnace for making of steel to be erected or continued in America,

under penalty of soul.

the same to be deemed a common nuisance ;

and the Governor, upon information, to cause it to be abated,

under penalty of soul. and being disqualified.

Method of suing for and recovering the penalties.

spectively, wherein the offender shall dwell at the time when the offence shall be committed, or at the time when such action, bill, plaint, or information shall be brought; and every such action, bill, plaint, or information to be brought in Great-Britain, shall be laid either in the county where any such offence shall be committed, or where the offender shall dwell at the time when such action, bill, plaint, or information shall be brought.

And be it further Enacted by the authority aforesaid, That all such penalties and forfeitures shall be applied, one moiety to the use of his Majesty, his heirs and successors, and the other moiety to such person or persons as shall sue for the same.

Application of the penalties.

And it is hereby further Enacted by the authority aforesaid, That all bar iron which shall be imported from any of his Majesty's colonies in America into the port of London, by virtue or under the authority of this present act, shall be entered at the custom-house in London; and every bar of the said iron so entered, shall be marked or stamped with such mark or stamp as the commissioners of his Majesty's customs shall for that purpose order or direct, in three different parts of every such bar (that is to say) two of the said marks or stamps at the distance of one yard from each end of such bar, and the other of them at or near the middle thereof.

Iron imported on this act, to be entered at the custom-house in London,

and to be stamped in 3 different parts.

And it is hereby further Enacted, That if any person shall counterfeit, or wilfully destroy or deface, any of the said marks or stamps, with an intent to convey or carry the same to any place ten miles from any part of the port of London, contrary to the true meaning of this act, every person so offending, and being thereof legally convicted, shall forfeit the sum of one hundred pounds, to be recovered by action of debt, bill, plaint, or information, in any of his Majesty's courts of record at Westminster; one moiety thereof to his Majesty, his heirs and successors, and the other moiety to such person or persons who shall sue for the same.

Penalty of counterfeiting or defacing the stamps, with intent to carry the same 10 miles from London.

And be it further Enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, every Governor, or lieutenant governor, or commander in chief of any of his Majesty's colonies in America, shall forthwith transmit to the commissioners for trade and plantations, a certificate under his hand and seal of office, containing a particular account of every mill or engine for slitting and rolling of iron; and every plateing forge to work with a tilt hammer; and every furnace for making steel, at the time of the commencement of this act, erected in his colony; expressing also in the said certificate such of them as are used, and the name or names of the proprietor or proprietors of each such mill, engine, forge, and furnace, and the place where each such mill, engine, forge, and furnace is erected, and the number of engines, forges, and furnaces in the said colony; and if any Governor, lieutenant governor, or commander in chief, shall neglect or refuse so to do within six months after the said twenty-fourth day of June, every such governor, lieutenant governor, or commander in chief so offending, shall be subject to such penalties and forfeitures, as any Governor, or lieutenant governor of

Governors to transmit certificates of mills for slitting iron &c. erected in his colony, &c.

any of the said colonies is liable to for any offence committed against this act, to be recovered in like manner, as is by this act directed for the same.

Limitation of actions.

General issue.

Treble costs.

Public act.

And be it further Enacted by the authority aforesaid, That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this act, the defendant or defendants in any such action or suit may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereon ; and that the same was done in pursuance and by the authority of this act ; and if it shall appear so to have been done, the jury shall find for the defendant or defendants ; and if the plaintiff shall be nonsuited, or discontinue his action after the defendant or defendants shall have appeared ; or if judgment shall be given upon a verdict or demurrer against the plaintiff, the defendant or defendants shall and may recover treble costs, and have the like remedy for the same, as any defendant or defendants hath or have in other cases by law.

And be it further Enacted by the authority aforesaid, That this act shall be deemed a publick act, and be judicially taken notice of as such, by all judges, justices, and other persons whatsoever, without specially pleading the same.

Pass'd 24th of Geo. 2.

An Act for Regulating the Commencement of the Year ; and for Correcting the Calender now in Use.

Preamble.

Whereas the legal supputation of the year of our Lord in that part of Great-Britain called England, according to which the year beginneth on the twenty-fifth day of March, hath been found by experience to be attended with divers inconveniences, not only as it differs from the usage of neighbouring nations, but also from the legal method of computation in that part of Great-Britain called Scotland, and from the common usage throughout the whole kingdom, and thereby frequent mistakes are occasioned in the dates of deeds, and other writings, and disputes arise therefrom : And whereas the calender now in use throughout all his Majesty's British dominions, commonly called the julian calender, hath been discovered to be erroneous, by means whereof the vernal or spring equinox, which at the time of the general council of Nice, in the year of our Lord three hundred and twenty-five, happened on or about the twenty-first day of March, now happens on the ninth or tenth day of the same month ; and the said error is still increasing, and if not remedied, would, in process of time, occasion the several equinoxes and solstices to fall at very different times in the civil year from what they formerly did, which might tend to mislead persons ignorant of the said alteration : And whereas a method of correcting the calender in such manner, as that the equinoxes and solstices may for the future fall nearly on the same nominal days, on which the same happened at the time of the said general council, hath been received and established, and is now

generally practised by almost all other nations of Europe : And whereas it will be of general convenience to merchants, and other persons corresponding with other nations and countries, and tend to prevent mistakes and disputes in or concerning the dates of letters, and accounts, if the like correction be received and established in his Majesty's dominions : May it therefore please your Majesty, that it may be Enacted ; *and be it Enacted by the King's most excellent majesty, by and with the advice and consent of the Lord's spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same,* That in and throughout all his Majesty's dominions and countries in Europe, Asia, Africa, and America, belonging or subject to the crown of Great-Britain, the said supputation, according to which the year of our Lord beginneth on the twenty-fifth day of March, shall not be made use of from and after the last day of December, one thousand seven hundred and fifty-one ; and that the first day of January, next following the said last day of December, shall be reckoned, taken, deemed, and accounted, to be the first day of the year of our Lord one thousand seven hundred and fifty-two ; and the first day of January, which shall happen next after the said first day of January, one thousand seven hundred and fifty-two, shall be reckoned, taken, deemed, and accounted, to be the first day of the year of our Lord, one thousand seven hundred and fifty-three ; and so on, from time to time, the first day of January in every year, which shall happen in time to come, shall be reckoned, taken, deemed, and accounted to be the first day of the year ; and that each new year shall accordingly commence, and begin to be reckoned, from the first day of every such month of January next preceding the twenty-fifth day of March, on which such year would, according to the present supputation, have begun or commenced : And that from and after the said first day of January, one thousand seven hundred and fifty-two, the several days of each month shall go on, and be reckoned and numbered in the same order ; and the feast of Easter, and other moveable feasts thereon depending, shall be ascertained according to the same method as they now are, until the second day of September, in the said year one thousand seven hundred and fifty-two inclusive ; and that the natural day next immediately following the said second day of September, shall be called, reckoned, and accounted, to be the fourteenth day of September, omitting for that time only the eleven intermediate nominal days of the common calender ; and that the several natural days, which shall follow and succeed next after the said fourteenth day of September, shall be respectively called, reckoned, and numbered forwards in numerical order from the said fourteenth day of September, according to the order and succession of days now used in the present calendar ; and that all acts, deeds, writings, notes, and other instruments of what nature or kind soever, whether ecclesiastical or civil, publick or private, which shall be made, executed, or signed, upon or after the said first day of January, one thousand seven hundred and fifty-two, shall bear date according to the said new method of supputation, and that the two fixed terms of Saint Hilary and

The old Supputation of the year not to be made use of after Dec. 1751.

Year to commence, for the future, on 1 Jan.

The days to be numbered in the same Order. &c.

All writings after 1 Jan. 1752, to be dated according to the new stile.

Hilary and Michaelmas

terms, and all courts, to be held on the same nominal days and times they now are, after the said 2 Sept.

Courts held with fairs or marts excepted.

Hundredth years, except every fourth hundred, to be deemed common years consisting of 365 days.

Years which are to be accounted Bissextile or Leap years, consisting of 366 days.

Saint Michael, in that part of Great-Britain called England, and the courts of great sessions in the counties palatine, and in Wales, and also the courts of general quarter sessions and general sessions of the peace, and all other courts of what nature or kind soever, whether civil, criminal, or ecclesiastical, and all meetings and assemblies of any bodies politick or corporate, either for the election of any officers or members thereof, or for any such officers entering upon the execution of their respective offices, or for any other purpose whatsoever, which by any law, statute, charter, custom, or usage within this kingdom, or within any other the dominions or countries subject or belonging to the crown of Great-Britain, are to be holden and kept on any fixed or certain day of any month, or on any day depending upon the beginning, or any certain day, of any month (except such courts as are usually holden or kept with any fairs or marts) shall, from time to time, from and after the said second day of September, be holden and kept upon or according to the same respective nominal days and times, whereon or according to which the same are now to be holden, but which shall be computed according to the said new method of numbering and reckoning the days of the calendar as aforesaid; that is to say, eleven days sooner than the respective days whereon the same are now holden and kept; any law, statute, charter, custom, or usage, to the contrary thereof in any wise notwithstanding.

And for the continuing and preserving the calendar or method of reckoning, and computing the days of the year in the same regular course, as near as may be, in all times coming; *Be it further Enacted by the authority aforesaid*, That the several years of our Lord, one thousand eight hundred, one thousand nine hundred, two thousand one hundred, two thousand two hundred, two thousand three hundred, or any other hundredth years of our Lord, which shall happen in time to come, except only every fourth hundredth year of our Lord, whereof the year of our Lord two thousand shall be the first, shall not be esteemed or taken to be bissextile or leap years, but shall be taken to be common years, consisting of three hundred and sixty-five days, and no more; and that the years of our Lord, two thousand, two thousand four hundred, two thousand eight hundred, and every other fourth hundredth year of our Lord, from the said year of our Lord two thousand inclusive, and also all other years of our Lord, which by the present supputation are esteemed to be bissextile or leap years, shall for the future, and in all times to come, be esteemed and taken to be bissextile or leap years, consisting of three hundred and sixty six days, in the same sort and manner as is now used with respect to every fourth year of our Lord.

And whereas according to the rule prefixed to the book of common prayer of the church of England, easter-day is always the first sunday after the first full moon which happens next after the one and twentieth day of March, and if the full moon happens upon a sunday, easter-day is the sunday after; which rule was made in conformity to the decree of the said general council of Nice, for the celebration of the said feast of Easter: And whereas the method of computing the full moons now used in the

church of England, and according to which the table to find Easter for ever, prefixed to the said book of common prayer, is formed, is by process of time become considerably erroneous: And whereas a calendar, and also certain tables and rules for the fixing the true time of the celebration of the said feast of Easter, and the finding the times of the full moons on which the same dependeth, so as the same shall agree as nearly as may be with the decree of the said general council, and also with the practice of foreign countries, have been prepared, and are hereunto annexed; *Be it therefore further Enacted by the authority aforesaid*, That the said feast of Easter, or any of the moveable feasts thereon depending, shall, from and after the said second day of September, be no longer kept or observed in that part of Great-Britain called England, or in any other the dominions or countries subject or belonging to the crown of Great-Britain, according to the said method of supputation now used, or the said table prefixed to the said book of common prayer; and that the said table, and also the column of golden numbers, as they are now prefixed to the respective days of the month in the said calendar, shall be left out in all future editions of the said book of common prayer; and that the said new calender, tables, and rules, hereunto annexed, shall be prefixed to all such future editions of the said book, in the room and stead thereof; and that from and after the said second day of September, all and every the fixed feast-days, holy-days, and fast-days, which are now kept and observed by the church of England, and also the several solemn days of thanksgiving, and of fasting and humiliation which by virtue of any act of parliament now in being, are, from time to time, to be kept and observed, shall be kept and observed on the respective days marked for the celebration of the same in the said new calender; that is to say, on the same respective nominal days on which the same are now kept and observed; but which according to the alteration by this act intended to be made, as aforesaid, will happen eleven days sooner than the same now do; and that the said feast of Easter, and all other moveable feasts thereon depending, shall, from time to time, be observed and celebrated according to the said new calendar, tables, and rules, hereunto annexed, in that part of Great-Britain called England, and in all the dominions and countries aforesaid, wherein the liturgy of the church of England now is, or hereafter shall be used; and that the two moveable terms of Easter and Trinity, and all courts of what nature or kind soever, and all meetings and assemblies of any bodies polittick or corporate, and all markets, fairs, and marts, and courts thereunto belonging, which by any law, statute, charter, custom, or usage, are appointed, used, or accustomed to be holden and kept at any moveable time or times depending upon the time of Easter, or any other such moveable feast, as aforesaid, shall, from time to time, from and after the said second day of September, be holden and kept on such days and times whereon the same shall respectively happen or fall, according to the happening or falling of the said feast of Easter, or such other moveable feasts, as

Easter and the other moveable feasts, not to be observed after the said 2 September, according to the table now prefixed to the book of common prayer;

but according to the new calender tables.

aforesaid, to be computed according to the said new calendar, tables, and rules.

Court of session and Exchequer in Scotland, and markets, fairs, and marts to be held upon the same natural days they should have been holden on, if this act had not been made.

And be it further Enacted by the authority aforesaid, That the several meetings of the court of session, and terms fixed for the court of exchequer in Scotland, the April meeting of the governor, baliffs, and commonalty of the company of conservators of the great level of the fens, and the holding and keeping of all markets, fairs, and marts, whether for the sale of goods or cattle, or for the hiring of servants, or for any other purpose, which are either fixed to certain nominal days of the month, or depending upon the beginning, or any certain day, of any month, and all courts incident or belonging to, or usually holden or kept with any such fairs or marts, fixed to such certain times as aforesaid, shall not, from and after the said second day of September, be continued upon, or according to the nominal days of the month, or the time of the beginning of any month, to be computed according to the said new calendar, but that from and after the said second day of September, the said courts of session and exchequer, the said April meeting, and all such markets, fairs, and marts as aforesaid, and all courts incident or belonging thereto, shall be holden and kept upon, or according to the same natural days, upon or according to which the same should have been so kept or holden, in case this act had not been made; that is to say, eleven days later than the same would have happened, according to the nominal days of the said new supputation of time, by which the commencement of each month, and the nominal days thereof, are anticipated or brought forward, by the space of eleven days; any thing in this act contained to the contrary thereof in any wise notwithstanding.

And whereas, according to divers customs, prescriptions, and usages, in certain places within this kingdom, certain lands and grounds are, on particular nominal days and times in the year, to be opened for common of pasture, and other purposes; and at other times, the owners and occupiers of such lands and grounds have a right to inclose or shut up the same, for their own private use; and there is, in many other instances, a temporary and distinct property and right vested in different persons, in and to many such lands and grounds, according to certain nominal days and times in the year: And whereas the anticipating or bringing forward the said nominal days and times, by the space of eleven days, according to the said new method of supputation, might be attended with many inconveniences; *Be it therefore further declared, provided, and enacted, by the authority aforesaid,* That nothing in this act contained shall extend, or be construed to extend, to accelerate or anticipate the days or times for the opening, inclosing, or shutting up any such lands or grounds, as aforesaid, or the days or times on which any such temporary or distinct property or right in or to any such lands or ground as aforesaid is to commence; but that all such lands and grounds as aforesaid shall, from and after the said second day of September, be, from time to time, respectively opened, inclosed, or shut up, and such temporary and distinct property and right in and to such lands and

The natural days & times for the opening and inclosing of commons of pasture, not altered by this act.

grounds as aforesaid, shall commence and begin upon the same natural days and times on which the same should have been so respectively opened, inclosed, or shut up, or would have commenced or begun, in case this act had not been made; that is to say, eleven days later than the same would have happened, according to the said new account and supputation of time, so to begin on the said fourteenth day of September, as aforesaid.

Provided also, and it is hereby further declared and enacted, That nothing in this present act contained shall extend, or be construed to extend, to accelerate or anticipate the time of payment of any rent or rents, annuity or annuities, or sum or sums of money whatsoever, which shall become payable by virtue or in consequence of any custom, usage, lease, deed, writing, bond, note, contract or other agreement, whatsoever, now subsisting, or which shall be made, signed, sealed, or entered into, at any time before the said fourteenth day of September, or which shall become payable by virtue of an act or acts of parliament now in force, or which shall be made before the said fourteenth day of September, or the time of doing any matter or thing directed or required by any such act or acts of parliament to be done in relation thereto; or to accelerate the payment of, or increase the interest of, any such sum of money which shall become payable as aforesaid; or to accelerate the time of the delivery of any goods, chattles, wares, merchandize, or other things whatsoever; or the time of the commencement, expiration, or determination of any lease or demise of any lands, tenements, or hereditaments, or of any other contract or agreement whatsoever; or of the accepting, surrendering, or delivering up the possession of any such lands, tenements, or hereditaments; or the commencement, expiration, or determination of any annuity or rent; or of any grant for any term of years, of what nature or kind soever, by virtue or in consequence of any such deed, writing, contract, or agreement; or the time of the attaining the age of one and twenty years, or any other age requisite by any law, custom, or usage, deed, will, or writing whatsoever, for the doing any act, or for any other purpose whatsoever, by any person or persons now born, or who shall be born before the said fourteenth day of September, or the time of the expiration or determination of any apprenticeship, or other service, by virtue of any indenture, or of any articles under seal, or by reason of any simple contract or hiring whatsoever; but that all and every such rent and rents, annuity and annuities, sum and sums of money, and the interest thereof, shall remain and continue to be due and payable; and the delivery of such goods and chattels, wares and merchandize, shall be made; and the said leases and demises of all such lands, tenements, and hereditaments, and the said contracts and agreements, shall be deemed to commence, expire, and determine; and the said lands, tenements, and hereditaments, shall be accepted, surrendered, and delivered up; and the said rents and annuities, and grants for any term of years, shall commence, cease, and determine, at and upon the same respective natural days and times, as the same should and ought to have been payable or made, or would have happened, in case this act

The natural days & times of payment of rents, annuities, sums of money, or interest,

or of the delivery of goods, Commencement or expiration of leases &c.

or of attaining the age of 21 years, &c. not altered by this act.

had not been made ; and that no further or other sum shall be paid or payable for the interest of any sum of money whatsoever, than such interest shall amount unto, for the true number of natural days for which the principal sum bearing such interest shall continue due and unpaid ; and that no person or persons whatsoever shall be deemed or taken to have attained the said age of one and twenty years, or any other such age, as aforesaid, or to have completed the time of any such service, as aforesaid, until the full number of years and days shall be elapsed on which such person or persons respectively would have attained such age, or would have completed the time of such service, as aforesaid, in case this act had not been made ; any thing herein before contained to the contrary thereof in any wise notwithstanding.

Pass'd 25th of
Geo. 2.

An Act to amend an Act made in the last Session of Parliament, (intituled, An Act for regulating the Commencement of the Year, and for correcting the Calender now in Use.)

Preamble recit-
ing clauses in an
act 24 Geo. II.

Whereas by an act of parliament made in the twenty fourth year of the reign of his present Majesty, (intituled, An act for regulating the commencement of the year, and for correcting the calender now in use) it is among other things enacted, That the natural day next immediately following the second day of September, which shall be in the year of our Lord one thousand seven hundred and fifty two, shall be reckoned and accounted to be the fourteenth day of September, omitting for that time only, the eleven intermediate nominal days of the common calendar, and that the days immediately succeeding shall be called, reckoned, and numbered forwards in numerical order, from the said fourteenth day of September, and that all meetings and assemblies of any bodies politick or corporate, either for the election of any officers or members thereof, or for any such officers entering upon the execution of their respective offices, or for any other purpose which by law, charter, custom, or usage are to be holden on any fixed or certain day of any month, shall, from and after the said second day of September, be holden and kept upon or according to the same respective nominal days and times whereon the same are then to be holden ; but which should be computed according to the new method of numbering and reckoning the days of the calendar as therein mentioned, as by the said act may more fully appear : And whereas by the charters, customs or usage of some cities, boroughs, towns, or other communities, or bodies politick or corporate, the election of officers, or the entrance of officers on the execution of their offices, or the doing of some other corporate acts, may be fixed or required to be on some certain nominal day or days of the said month of September, falling between the second and fourteenth days of the same month, which said nominal days, are by the said act required to be dropt or omitted for this present year, so that there will not in fact be any nominal days

between the said second and fourteenth days of the said month of September, for this present year, whereon such corporate acts can be done ; and doubts have arisen whether such corporate acts may be done at all without a special provision for that purpose, by authority of parliament ; and inconveniences may possibly ensue for want thereof ; *Be it therefore Enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same,* That it shall and may be lawful to and for all such bodies politick and corporate as aforesaid, and all and every the officers and members thereof, and they and every of them are hereby required to do all such acts, as by any law, charter, or usage are appointed or required to be done on any of the nominal days of or in the said month of September, which by the said recited act are directed to be dropt or omitted for this present year, upon the same natural day or days of this year only, as such acts would, might, or ought to be done, in case the said recited act had not been made ; and that all acts so done in pursuance hereof shall be deemed and are hereby declared and enacted to be as good and effectual to all intents and purposes, as if the same were done on any of the nominal days so dropt or omitted as aforesaid ; any law, statute, charter, custom, or usage to the contrary in any wise notwithstanding.

The election of officers and the doing other corporate acts to be done upon the same natural days, of this year only, as they ought to be done, if the recited act had not been made.

And whereas in divers parts of this kingdom, by custom, prescription, or usage, or by virtue of some law or contract, certain lands and grounds are to be opened and used for common of pasture or other purposes, and the same lands and grounds are again inclosed and shut up, and certain rents or other payments are due and payable, and some other matters and things may be to be done upon some of the moveable feasts or upon certain days or times depending upon, or to be computed from the same : and whereas the said moveable feasts are hereafter to take place, and to be observed according to the new calendar by the said act directed to be used, whereby some doubts have already arisen, or may hereafter arise, about the time for opening and using, inclosing and shutting up, such lands and grounds, the paying of such rents or other payments, and the doing such other matters or things as aforesaid : for remedy thereof, *Be it further Enacted by the authority aforesaid,* That from and after the said second day of September, in the said year of our Lord one thousand seven hundred and fifty two, the respective times for opening, using, inclosing, and shutting up all such lands and grounds as aforesaid, for the paying of such rents or other payments, and for the doing of such other matters or things as aforesaid, if such times are depending on any moveable feast or feasts, shall be computed and take place according to the said new calendar, and the tables and rules in the said recited act directed to be used, and not according to the method of supputation heretofore used, or to the tables heretofore commonly affixed to the book of common prayer ; and the temporary and distinct property and right of all persons, bodies politick and corporate, of, to, and in all such lands and grounds,

After 2 Sept. 1752, the times for opening and inclosing grounds for common or pasture, and for payment of rent, &c. and if the same depend on any moveable feast, are to take place according to the new calendar.

shall commence and be enjoyed, and all such rents and payments shall become and be due and payable; and all such matters and things, shall be transacted and done accordingly; any law, custom, prescription, or usage, to the contrary notwithstanding.

The title to such lands, not altered by this act.

Provided always, and it is hereby further declared and enacted by the authority aforesaid, That nothing in this act contained shall extend, or be construed to extend, to the abridging, enlarging, confirming, or altering, the title of any person, body politick or corporate whatsoever, of, in, or to any such lands or grounds, but the same shall remain and continue the same in all respects, (except as to the new computation of time, when such respective right or the enjoyment thereof shall commence, or be put in use.)

Recital of clauses in the style act,

And whereas, within the city of London, the usual and accustomed time of the annual meeting and assembly of the citizens of the said city, for the admission and swearing of the mayor of the same city, in the Guild-hall there, hath been on the feast day of saint Simon and Jude, being the twenty eighth day of October, in every year; and the usual and accustomed solemnity of presenting and swearing the mayor of the same city, in the court of Exchequer at Westminster, hath been on the day next following the said feast of saint Simon and Jude, to wit, on the twenty ninth day of October, in every year: and whereas by the said in part recited act, it was enacted, that all meetings and assemblies of any bodies politick or corporate, either for the election of any officers or members thereof, or for any such officers entering upon the execution of their respective offices, or for any other purpose whatsoever, which by any law, statute, charter, custom, or usage, within this kingdom, were to be holden and kept on any fixed or certain day of any month, should, from and after the second day of September, one thousand seven hundred and fifty two, now next ensuing, be holden and kept upon, or according to the same respective nominal days and times whereon, or according to which the same were, at the time of making the said act, to be holden: And

and in the act for the abbreviation of Michaelmas term.

whereas, by another act of parliament made in the same twenty fourth year of the reign of his present majesty, intituled, An Act for the Abbreviation of Michaelmas Term, it was enacted, that the said solemnity of presenting and swearing the mayors of the said city of London, before the king or queen of England, in their court of Exchequer at Westminster, or before the barons of the said court, after every annual election into the said office, in the manner and form heretofore used, on the twenty ninth day of October, should, from and after the feast of saint Michael, in the year of our Lord one thousand seven hundred and fifty two, be kept and observed on the ninth day of November, in every year;

The annual admission and swearing of the Mayor of London, to be on 8 Nov.

Be it therefore Enacted by the Authority aforesaid, That the said annual admission and swearing of the mayor of the said city of London, at the Guild-hall there, shall not at any time hereafter be had and performed on the said twenty eighth day of October; but the same, and all annual meetings and assemblies for that purpose, shall, at all times hereafter, be had, done, and holden in the usual and accustomed manner on the eighth day of November, in

every year, being the day next preceding the said ninth day of November, whereon the said solemnity of presenting and swearing the mayor of the said city in the court of Exchequer, is appointed for the future to be kept and observed as aforesaid, and not before ; any thing in the said first recited act of parliament, or any law, custom, or usage to the contrary thereof in any wise notwithstanding.

AN ACT MORE EFFECTUALLY TO PREVENT THE COUNTERFEITING THE BILLS OF CREDIT ON THIS PROVINCE. Pass'd 12th of George 2.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That whosoever after the publication of this act, shall presume to forge, counterfeit, or utter any bill, or bills, (knowing the same when uttered to be false and counterfeit) of the tenor, or in imitation of any of the bills of credit, on this province, that already are, or hereafter shall be by law established ; or that shall counsel, advise, or any ways assist in the forging, counterfeiting, imprinting, stamping, or signing any such false and counterfeit bill or bills ; or that shall make any press, engrave any plate, or make any other instrument ; or that shall counsel, advise, or any ways assist in the making any press, engraving any plate, or in making any other instrument, to be used for the making any such false and counterfeit bill or bills ; or that shall knowingly keep such press, plate, or other instrument, in his, her, or their possession, the space of forty-eight hours, without discovering the same to some justice of the peace, within this province ; or that shall increase, or counsel, advise, or any ways assist in the increasing the sum, value or figures, set and expressed in any of the bills of credit on this province, that already are or hereafter shall or may be by law established ; or that shall forge or counterfeit, or shall counsel, advise, or any ways assist in the forging or counterfeiting any name, hand, stamp, or other mark that already is, or hereafter shall or may be ordered to be set thereon ; every person and persons so offending, and being thereof convicted, shall be adjudged to suffer the pains of death without benefit of clergy.

No person to counterfeit bills of credit,

nor to advise or assist in making any press engraving any plate.

Uttering any counterfeit bills, death, without benefit of clergy.

Pass'd 12th of
George 2.

AN ACT FOR THE MORE EASY AND SPEEDY ASSESSING AND COLLECTING THE PROVINCE RATES AND TAXES.

Preamble.

Whereas the laws in force in this province are in some measure defective with respect to directions, for assessing and levying the province rates and taxes :

Be it therefore Enacted by the Governor, Council, and Representatives in General Assembly conven'd, and by the Authority of the same :

Taxes already
assessed accord-
ing to former
custom, to be
held good.

Constables au-
thorized to col-
lect the same.

Selectmen and
assessors author-
ized to assess
the poles and
estates as for
town rates.

That all rates, taxes, and assessments on the poles and estates of the inhabitants of any towns, parishes, or precincts within this province, as their respective proportion of the province tax and charges that have heretofore been made, agreeable to the usual practice and custom of the towns within the same that are already collected ; and also all such rates and assessments that are made as aforesaid, and not yet collected, shall be held good, firm, and valid in law, and are hereby declared so to be to all intents and purposes, notwithstanding any want of express and particular direction in the laws of this province concerning the same : and all constables of the said towns, parishes, or precincts, are hereby ordered, impowered and authorized to collect and levy all such rates and taxes in the same method, manner and form as they are by law enabled to levy and collect town rates and assessments : and in case of default or failure, to collect and pay all rates, taxes and assessments for defraying the province charge, and belonging to the same, that are or shall be committed to any constable within, and belonging to any town in this province, according to the directions given him in his warrant for collecting the same, and issuing the accounts thereof according to law, every such defective constable shall be liable to the same sort of process as is already provided in and by an act or law of this province, entitled, An act relating to constables collecting rates or assessments.

And be it further Enacted by the Authority aforesaid, That the select men and assessors of the said towns, parishes and precincts, are hereby authorized and enabled to assess the poles and estates of the inhabitants within their respective districts, each one according to his known ability, their proportion of all province charge and taxes yearly upon the receipt of the treasurer's warrant, to be directed to the select men as has been usual. The rates and assessments to be made under the hands of the select men and assessors : To be committed to the constable or constables within the said towns, with a warrant for collecting and levying the same in the method, form and manner as the law directs respecting town rates.

AN ACT FOR THE REGULATING OF MILLS.

Pass'd the 4th
of George 1.

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That every miller shall be provided of scales and weights to weigh corn to and from the mill, if desired. And the toll for grinding all sorts of grain, (but indian-corn, for which the mill or miller may take one twelfth,) viz. one sixteenth part, and no more: any law, usage or custom to the contrary notwithstanding.

Miller to have
scales & weights,
what toll to take.

And be it further Enacted by the Authority aforesaid, That where any persons have already, or shall hereafter set up any water mill or mills, upon his or their own lands, or with the consent of the proprietors of such lands legally obtained, whereupon such mill or mills is, or shall be erected or built; then such owner or owners shall have free liberty to continue and improve such pond for their best advantage without molestation.

Mills built on
lands by the
owners consent
to be continued.

And if any person or persons find themselves aggrieved and damnified in their property of lands, by reason of its being flowed by the owner or occupant of such mills stopping or raising the water, that in every such case the party so damnified in his said property, upon application for relief to the court of general sessions of the peace in this province; the said court be and hereby are empowered to issue out a warrant, directed to the sheriff, to summon and impanel a jury of good and lawful men, at the proper cost and charge of the owner or owners of such mill or mills; and the jury shall be sworn by a justice of the peace, to a faithful indifferent apprizal of the damage done for the time past, to the person complaining, by flowing his or their land or marsh; and the jurors verdict being returned by the hand of the sheriff to the next court of quarter sessions of this province, being allowed and recorded, shall be a sufficient bar against any action, to be brought for any such damages occasioned by the flowing of any such lands or marsh as aforesaid; save only an action of debt, which the complainant may bring for the recovery of such sum or sums of money from the owner or occupant of such mill assessed as aforesaid. But if the jury find no damage for the complainant, then he or they be at the cost of the jury, and other legal cost arising by such complaint, as shall be allowed by the justices of the said court.

Remedy for
damage on land
by being over-
flowed.

Pass'd 13th of
Wm. 3.

AN ACT FOR REGULATING OF TANNERS, CURRIERS, AND CORD-
WAINERS, FOR THE BETTER PREVENTING OF DECEITS, AND ABUSES
BY TANNERS, CURRIERS, DRESSERS OR WORKERS UP OF LEATHER.

*Be it Enacted by the Lieutenant Governor, Council, and Rep-
resentatives in General Assembly convened, and by the Author-
ity of the same :*

No currier or
shoe maker to
exercise the
trade of tanning.

That no person or persons using or occupying the art or mys-
tery of a currier, or shoe-maker by himself or any other, shall use
or exercise the feat or mystery of a tanner ; on pain of the for-
feiture of ten shillings, for every hide or skin by him or them so
tanned, whilst he or they shall occupy any of the mysteries afore-
said. Nor shall any tanner, whilst he useth the mystery of tanning
by himself or any other, use or occupy the said trade or mystery
either of currier, or shoe-maker, upon pain of the like forfeiture
aforesaid.

No tanner to be
a shoe maker or
currier.

No tanner to
put bad leather
to sale.

And be it Enacted by the Authority aforesaid, That no person
or persons whatsoever, using or occupying the mystery or faculty
of tanning, shall at any time or times hereafter, offer or put to sail
any kind of leather which shall be insufficiently tanned ; or which
hath been over-limed, or burnt in the limes ; or not well dried after
tanning ; or that shall not be sealed, as in and by this act is here-
after directed, upon pain of forfeiting all such leather so offered
or put to sale.

Upon penalty of
loosing it.

Every currier
to work his
leather suffi-
ciently.

And be it further Enacted by the Authority aforesaid, That no
person or persons whatsoever, using or occupying the mystery or
faculty of currying, shall or may curry any hide not thoroughly
dried ; or shall use any deceitful or subtil mixture, thing, way, or
means, to corrupt the same ; but shall with good sufficient stuff,
fresh, not salt, thoroughly liquor it until it will receive no more,
nor shall burn or scald any hide or leather in the currying, but
shall work the same sufficiently, in all respects, on pain of forfeiting
all such leather so marred or hurt by his evil workmanship, or
handling ; and shall pay the full value and worth of the leather to
the owner thereof, which shall be adjudged by the sealers or search-
ers, and recoverable before any court of record, within this province,
or before one justice of peace, if the sum do not exceed forty
shillings.

To pay the full
value of the
leather by him
marred, unto the
owner.

No shoe maker
to work bad
leather.

And be it further Enacted by the Authority aforesaid, That no
person or persons using or occupying the mystery or faculty of a
shoe-maker, shall work up any leather that is not tanned, and
curried, as aforesaid : on pain of forfeiting all shoes, boots, or other
wares made or wrought up of such insufficient leather.

And for the better and more effectual execution of this Act :

Leather to be
searched and
sealed before it
pass out of the
tanners or cur-
riers yard.

Searchers and
sealers to be
yearly chosen.

Be it Enacted by the Authority aforesaid, That all leather that
is, or hereafter shall be tanned or curried, shall before the same
pass out of the tanners or curriers yard, house or place respectively
where it was wrought, be viewed by the sworn searchers and sealers
of leather by law directed ; who shall be annually chosen in such
towns as there shall be need ; who shall have two several marks or

seals to be prepared by the town for that purpose ; with one they shall seal all the leather they find well tanned, as aforesaid ; and with the other they shall seal or mark all they shall find sufficiently curried, as is before mentioned, and no other. And the said searchers and sealers are hereby authorized and impowered, *ex-officio*, to make search and view in any house or other place within their limits where they conceive any leather to be, whether wrought up or otherwise, as they shall think meet ; and if they or any of them shall find any leather sold or offered to be sold which shall be tanned, curried, handled or used, contrary to the true intent, and meaning of this act ; or shall find any leather in whole sides out of the possession of a tanner, not being sealed with the seal to be used for leather only tanned, or out of the possession of the currier, not being sealed with the seal to be used for leather when curried : In every such case, it may and shall be lawful for the said searchers and sealers or any of them, to seize all such insufficient and unsealed leather, whether it be wrought up or not ; and if the owner or claimer thereof shall not submit to the judgment of the officer or officers that seized the same, such officer or officers shall retain such leather in his or their custody, until tryal thereof be had, as is hereafter directed, and judgment thereof given in : in such case the said officer or officers, shall within three days after such seizure inform some justice of the peace thereof, who shall thereupon appoint four or five men honest and skilful in leather to view the same in the presence of the owner or claimer, or without him if (having notice) he doth not appear ; and to report unto him upon their oaths, the defect which they find in such leather ; which report such justice shall return unto the court or justice respectively, before whom the tryal of such leather shall be : but in case the said viewers shall report that they do not find such leather or wares so seized, in any respects defective according to the intent of this act ; the justice that appointed such viewers, shall cause the same to be foreward discharged from the seizure made by such officer or officers.

To search and view in any house.

To seize all insufficient leather.

A justice of peace to cause a view of leather so seized.

Who shall discharge the leather if sufficient.

And be it further Enacted by the Authority aforesaid, That no person or persons whatsoever shall or may withstand or resist the searchers and sealers in the due execution of their office, nor in seizing any insufficient leather or wares, on pain of forfeiting the sum of five pounds for every such offence. And the fee for searching and sealing of leather shall be one penny per hide ; which fee the tanner and currier respectively shall pay upon sealing said leather, from time to time ; and shall pay three pence per mile after the first mile for every mile any sealer or searcher shall travel : and no sealer or searcher of leather shall refuse within convenient time to do his office ; or shall allow any leather or wares which are not sufficient, on pain of forfeiting forty shillings ; nor shall take any bribe, or exact more than his fees, on penalty of forfeiting ten pounds for every such offence.

No person to oppose the searchers, on pain of 5*l*.

The fee for sealing.

Penalty on sealers for neglect of duty.

And it is further Enacted by the Authority aforesaid, That all fines, penalties and forfeitures, that shall arise and grow by virtue of this act, shall be disposed as followeth : one half part for the support of this his majesty's government, to be paid to the treasurer

Penalties how to be disposed.

for the time being; and one half part to the seizer or seizers of such insufficient leather; or to him or them that shall inform and sue for the same. The said fines, penalties or forfeitures to be recovered by action, bill, plaint or information in any court of record within this province; or where the matter exceeds not forty shillings, before any justice of peace within the same.

Pass'd 13th of
Ann.

AN ACT PROVIDING IN CASE OF SICKNESS.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Select men to
provide for the
sick.

That for the better preventing the spreading of infection when it shall happen by any person or persons coming from abroad, or belonging to any town or place within this province, to be visited, or that late before have been visited with the plague, small-pox, pestilential or malignant fever, or other contagious sickness, the infection whereof may be probably communicated to others; the select-men of such town be, and hereby are impowered to take care, and make effectual provision in the best manner they can for the preservation of the inhabitants, by removing, and placing such sick or infecting person or persons to, and in a separate house or houses, and by providing of nurses, tendance, and other assistance, and necessaries for them, at the charge of the parties themselves, their parents or masters, (if able) or otherwise at the charge of the town, or place whereto they belong.

Towns to pay
the charge of
their own sick.

And in case it happen that any person or persons be visited with sickness in any other town or place than that whereto they belong, and thereby occasion a charge to such town, the select-men shall lay the account thereof before the justices of the court of general quarter-sessions of the peace within this province, and the justices having adjusted the account of such charge, and allowed so much thereof as they judge reasonable, shall order payment thereof to be made by the select-men of such town, when the person or persons themselves, their parents, or masters are unable to pay the same; and when it shall happen such indigent person or persons are not inhabitants, or do not belong to any town or place within this province, the proper charge of their sickness shall be defrayed out of the publick treasury of the province, by warrant from the governor, with the advice and consent of council.

Justices to make
out warrants for
impressing
lodging.

And be it further Enacted by the Authority aforesaid, That if need so require, any justice of the peace may make out a warrant directed to the sheriff of this province, his under-sheriff, or deputy, or constable or constables of the town or place where any such sick person or persons shall be, requiring them or any of them in her majesty's name, with advice and direction of the select-men of the same, or the major part of them, to impress, and take up such

convenient housing, lodging, nurses, tendance, and other necessities for the accomodation, safety, and relief of the sick.

And be it further Enacted by the Authority aforesaid, That if any person or persons, seamen or passengers, belonging to, or transported in any ship or vessel, arriving to any port, or harbour within this province, happen to be visited with the plague, small-pox, pestilential or malignant fever, during the voyage, or to come from any place where such sickness prevails, and is common ; any justice or justices of the peace within this province, to whom the notice or information thereof shall be given, shall forthwith take care to prevent and restrain all persons belonging to, or transported in such ship or other vessel from coming on shoar : and if any be before on shoar, to send them on board again ; as also to restrain persons from going on board such ship or vessel ; and to that end may make out a warrant directed to the sheriff of the province, aforesaid, his under sheriff, or deputy, or constables of the same town, who are accordingly impowered, and required to execute the same : and such justice or justices are forthwith to transmit the intelligence thereof to the governour, or commander in chief for the time being, who is hereby desired to take such further order therein, with the advice of the council, as shall be thought most meet and proper, for preventing the spreading of the infection.

Justices impowered to prevent persons coming on shoar from any vessels visited with sickness.

Notice of sickness to be given to the governour.

AN ACT FOR THE INCOURAGEMENT OF THE INHABITANTS OF HER MAJESTY'S PROVINCE OF NEW-HAMPSHIRE, IN THE MAKING OF TAR, TO BE TRANSPORTED INTO HER MAJESTY'S KINGDOM OF GREAT-BRITAIN, AND OTHERWISE, FOR THE INCOURAGEMENT OF TRADE.

Pass'd 6th of Ann.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That there be annually by the assembly of this province, a rate set upon all good tar of due assize in cask made in the province, and that it be received at the said rate so set in the treasury of the province, for the payment of all taxes for the future : and that for the year next coming after the date of this act, the price be twenty shillings per barrel, for every barrel of good tar in cask of just assize accordingly.

A rate to be set on tar.

And to be received in payment of province taxes.

AN ADDITIONAL ACT FOR THE MORE EQUAL ASSESSING AND COLLECTING OF PUBLICK TAXES, IN THIS PROVINCE.

Pass'd 4. A.

Whereas the act enjoining every person within this province to give in a true and perfect account of all his rateable estate, is found by experience not to attain the end proposed, and thereby

Preamble.

sundry of her Majesty's good subjects are forced to bear the greater burden ; for prevention whereof, and as an addition to the said law :

Be it enacted, and it is hereby enacted by his Excellency the Governor, Council, and Representatives convened in General Assembly, and by the Authority of the same :

Court of quarter sessions yearly to appoint one freeholder in each town to take account of the rateable estates.

Who shall have power to choose one to assist him. Under Oath.

His fee is 5l.

That the justices yearly in December at their sessions, shall appoint one freeholder in every town within this province to whom they, or any two of her majesty's justices of peace within this province, shall administer an oath for the faithful performance of the trust reposed in him, in going thorough the town he belongs unto, to every inhabitant thereof to take a just and true account of each persons rateable estate, which he shall deliver unto the select-men of such town where he belongs, sometime between December and March, every year ; which person so appointed shall have power to make choice of one or more person or persons to be assisting in taking a just and true account, as aforesaid : And every person or persons, appointed, as above-said, shall have the like oath administred to him or them for the faithful performance of what he is betruisted with ; and shall deliver the account so taken into the hands of the select-men within the time limitted, as aforesaid ; which person so appointed shall have for his pains and labour for himself and assistance in taking of the account of the said estates, the sum of five pounds ; to be paid by the select-men in every town, who are empowered to make assessments on their inhabitants for the same, and to be collected by the constable or constables, with their assessments made for the defraying the other town charges : Any law or usage to the contrary notwithstanding.

Pass'd 4. G. 1. AN ACT TO PREVENT THE CONCEALING ESTATES FROM ASSESSORS.

Be it enacted by the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That whosoever shall after the date hereof, leave out any part of his rateable estate, and not give in a true and perfect invoice thereof when called thereto by the select-men ; or those who are authorized to require it ; for every pound rateable estate that shall be so left out and not discovered, the select-men with the assessors shall have power to rate such person that shall so conceal, and not discover the same, the sum of five shillings, for every pound that shall be so concealed and not discovered, as aforesaid.

AN ACT FOR RESTRAINING INHUMAN SEVERITIES.

Pass'd 4th of
George 1.

Be it Enacted by His Excellency the Governor, Council and Representatives, Convened in General Assembly, and it is hereby Enacted by the Authority of the same :

That for the prevention and restraining inhuman severities, which by evil masters or overseers may be used towards their christain servants, that from and after the publication hereof, if any man smite out the eye, or tooth of his man servant or maid servant, or otherwise maim or disfigure them much, unless it be by meer casualty, he shall let him or her go free from his service, and shall allow such further recompence as the court of quarter sessions shall adjudge him.

And it is further Enacted and Ordained by the Authority aforesaid, That if any person or persons whatever within this province, shall wilfully kill his indian or negro servant or servants, he shall be punished with death.

AN ACT FOR REGULATING FERRIES.

Pass'd 4th of
George 1.

To the intent that all Ferries within this province be duly kept and constantly attended, for the ends where-unto they are appointed :

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That at all ferries that already are or hereafter shall be stated over any water or river, within this province, the ferrymen are hereby enjoyned to keep a good boat or boats in good repair suitable to the waters they are to ferry-over ; and also to give ready and due attendance on passengers upon all occasions ; on penalty of five shillings for every default of non-attendance : And for want of a good boat kept in good repair to pay five pounds ; the one half to his majesty, for and towards the support of the government, and the other half to him or them that shall inform or sue for the same, before a justice of the peace, or at the quarter sessions respectively, besides what damage may accrue to any person through the ferry-man's default.

Good boats to be
kept at ferries.Ferry men to
give due attend-
ance.Penalty for ne-
glect.Justices power
to hear.

And that all the members of the general assembly shall be ferryage free at all ferries in their passing to and from the assembly, and shall be transported without any unnecessary delay, on pain of forfeiting twenty shillings, as abovesaid.

Priviledge to
Assembly men.

Pase'd 11th
William 3.

AN ACT TO RETURN ABLE AND SUFFICIENT JURORS TO SERVE IN THE SEVERAL COURTS OF JUSTICE, AND TO REGULATE THE ELECTION OF REPRESENTATIVES TO SERVE IN THE GENERAL ASSEMBLY WITHIN THIS PROVINCE.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

Writs of *Venire*
for jurors to be
issued 15 days
before the court.

Qualification.

Penalty for their
neglect.

Tales de cir-
cumstantibus.

Coroner to re-
turn jurors &
serve writs, in
case.

Qualification of
representatives
and electors.

That the clerks of the several courts of justice within this province, fifteen days at least before the day limited by law, for holding such courts, from time to time, shall make out a writ of *venire facias*, directed unto the sheriff of the province, commanding him in his Majesty's name to impanel, and return so many good and lawful men for grand and petit jurors out of the several towns within this province, in as near a proportion as may be according to the number of inhabitants, each person so returned to have an estate of freehold worth forty shillings per annum, at the least, or fifty pounds sterling in personal estate. And the sheriff shall cause each person named in his pannel to be duly summoned and warned to attend the service of the court, where the same is returnable. The grand jurors for the quarter sessions of the peace, to serve one whole year, from the time of their being sworn; and every person impannell'd and summoned as aforesaid, to serve as a juror at any of the said courts, who shall make default by not appearing, or not attending the service required of him, shall loose and forfeit the sum of forty shillings; unless such person make a reasonable excuse for the same to be approv'd, and allow'd by the justices of the said court: the said forfeiture to be unto the use of our Sovereign Lord the King, for and towards the support of the government, and for answering the incident charges thereof, and to be imposed and set by the justices of the court where the *Venire* is returnable. And when it shall happen by reason of challenge, default in appearance or otherwise, there shall not remain a sufficient number to make up a petit jury, the sheriff by command of the justices of the court, shall return so many persons, *de talibus circumstantibus*, as shall be requisite to make up a full jury. And in case where the sheriff shall be a party, or related to either of the parties, the jury shall be impanelled, and return'd by the coroner, who is also hereby empower'd to serve writs, in cases where the sheriff is concerned.

And be it further Enacted by the Authority aforesaid, That no person inhabiting within this province, other than freeholders of the value or income of forty shillings per annum, or upwards in land, or worth fifty pounds sterling at the least, in personal estate, shall have any vote in the election of representatives, or be capable of being elected, to serve in the general assembly; and the tryal of such qualification as aforesaid, shall be by the last lists of rates and assessments, which the select-men of each respective town, are hereby required to bring with them for that end, upon all days and times appointed for such election.

And be it further Enacted by the Authority aforesaid, That there be a suitable person chosen in each town after the same manner, used for choice of other officers, to be town-clerk, to serve in the said office, until another be chosen and sworn in his stead. And every such town-clerk, shall have an oath administred unto him, by a justice of the peace, well and truly to execute the said office and trust.

Town clerk to be chosen and sworn.

AN ACT PREVENTING MENS SONS OR SERVANTS ABSENTING THEMSELVES FROM THEIR PARENTS OR MASTERS SERVICE, WITHOUT LEAVE.

Pass'd 13 of A.

Whereas Sundry of the Inhabitants of this province have sustain'd great damage, by their sons and servants deserting their service, without consent of their parents or masters, being encouraged to enter themselves on board of private men of war, or merchant ships, and there entertained :

Preamble.

For Redress whereof ;

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

That no commander of any private man of war, or master of any merchant ship or vessel coming into, tarrying or abiding in, or going forth of any port, harbour or place within this province, shall receive, harbour, entertain, conceal or secure on board such ship or other vessel, or suffer to be there harbour'd, or detain'd, any man's son, being under age, or apprentice or covenant servant (knowing him to be such, or after notice thereof given) without license or consent of his parent or master in writing under his hand first had and obtained ; on pain of forfeiting the sum of five pounds per week, and so proportionably for a longer or shorter time, that any son, apprentice, or servant shall be held, harbour'd, conceal'd, or detain'd on board any such ship or other vessel, as aforesaid, without license and consent, as aforesaid ; the one moiety thereof to her majesty, to be employ'd towards the support of the government of the province, and the other moiety unto the parent or master of such son, apprentice or servant that shall inform or sue for the same, in any of her majesty's courts of record, within this province ; by bill, plaint or information, wherein no essoign, protection or wager of law shall be allow'd.

Penalty on masters of ships, &c. for entertaining men's sons or servants without leave.

And be it further Enacted by the Authority aforesaid, That every apprentice or covenant servant, who shall unlawfully absent himself from his master, and enter on board any ship or vessel, as aforesaid, with intent to leave his master's service, or continue there more than the space of twenty-four hours, and be thereof convicted before any two of her majesty's justices of the peace, or in general sessions, within this province, shall forfeit unto his

Penalty on servants deserting their masters service.

master such further service, from and after the expiration of the term which his said master had in him, at the time of his departure, as the said court shall order, not exceeding one year.

Pass'd 3d of
Ann.

AN ACT FOR REGULATING THE MEASURE OF BOARDS, JOIST AND PLANK, &C.

See a new regulation of this matter among the temporary laws.

There having been many complaints, that boards, joist and plank, sold in this province are over marked, and want just measure, to the great hurt of trade, and oppression of the purchaser :

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and it is hereby Enacted and ordained by the Authority of the same :

That whosoever shall purchase boards, joist and plank, at any common landing-place or mill within this province, shall have power in the presence of a select-man, constable, or other officer, to measure all such boards so sold ; and whosoever shall not answer their marks, and do not amount to the full quantity of their marks, all such boards shall be forfeited and divided, the one half to the informer and prosecutor, and the other half to the poor of the parish : and every justice of peace is hereby impowered to have cognizance of this act, and to proceed therein to effect, and to give execution therein accordingly.

Pass'd 17th of
Geo. 2.

AN ACT IN ADDITION TO, AND FOR RENDERING MORE EFFECTUAL AN ACT, ENTITLED, AN ACT, FOR REGULATING TOWNSHIPS, CHOICE OF TOWN OFFICERS, AND SETTING FORTH THEIR POWER.

Whereas in and by the said act, the several towns in this province are enabled to meet some time in the month of March annually, and to make choice of town officers for the year ensuing, who are invested with power and authority to discharge the duties of their respective offices, but no provision is made in the said act for filling any of said offices upon a vacancy by death or otherwise, before the expiration of the year from such choice, whereby great inconveniences often happen to particular towns or parishes :

For Remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

Power of towns
&c. to chuse
officers on the

That any town, parish, or precinct within this province, that is by law enabled and authorized to chuse officers as aforesaid, or

that is invested with the usual powers, authorities and privileges of towns in this province, shall be, and hereby is authorized and impowered upon the vacancy of any office held by an officer, by law elective by the people, by the death of such officer or otherwise, agreeable to law, at a meeting of such persons as are qualified by law to vote in the ordinary town affairs, to chuse any person or persons qualified as the law in such cases directs, to fill up such vacancy or vacancies as often as occasion shall require, which officer or officers so chosen and qualified as the law directs, shall be impower'd and authorized to take up the business appertaining to his office, where his immediate predecessor in said office left it, and to proceed to the full execution and discharge of the same, as fully to all intents and purposes as the same might have been done by the officer first chosen for that year in the said office. And the select men or other officers appointed by law to call meetings of such voters in the said towns, parishes or precincts as there shall be occasion, are hereby impowered to call meetings of such voters for the purpose aforesaid, as effectually as for any other intent and purpose, or upon any other occasion whatsoever.

death or vacancy
&c.

Power of such
officers.

And be it further Enacted by the Authority aforesaid, That in such cases where there is a penalty inflicted on any person chosen to any such office at any of the said annual meetings, for refusing to accept or serve in the same, or concerning any matter or thing relating thereunto, the same penalties or forfeitures shall be inflicted, demanded and recoverable, and in the same manner to all intents and purposes with regard to any person or persons that shall be chosen as aforesaid, by virtue of this act.

Liable to the
same penalty as
others, &c.

AN ACT FOR ALTERING THE TIME OF THE SITTING OF THE GOVERNOR AND COUNCIL AS A COURT OF APPEALS IN THE MONTH OF NOVEMBER, AND OF HOLDING THE SUPERIOR COURT OF JUDICATURE, AND FOR IMPOWERING AND ENABLING THE COURT OF GENERAL SESSIONS OF THE PEACE WITHIN THE PROVINCE OF NEW-HAMPSHIRE TO ADJOURN.

Pass'd 26th of
Geo. 2.

Whereas in and by an act of the province of New-Hampshire, made and passed in the thirteenth year of the reign of his late Majesty King William the third, entitled, "An act for regulating trials in civil causes;" the time appointed by law for the sitting of the Governor and Council as a court of appeals within this province is on the second tuesdays of the months of November and May annually, and in and by an act of said province made and passed in the eleventh year of the reign of his late Majesty King William the third, entitled, "An act for establishing courts of public justice within this province;" the time appointed by law for holding the superior court of judicature within this province is on the second tuesday in August and on the second tuesday in February yearly from time to time; and whereas since the making and passing the said act appointing the time for the sitting of the

Preamble, con-
taining the rea-
sons of passing
this act.

Governor and Council as a court of appeals on the second tuesday of November, the time for the sitting thereof on said day, hath by another act been altered unto the second tuesday in October annually ; and since the making and passing the said act appointing the time for holding the superior court of judicature as aforesaid, hath been altered unto the first tuesday in August and the first tuesday in February yearly, which two recited acts are not to be found in the secretary's office for the province of New-Hampshire (nor any authenticated copies thereof) but it is probable were burnt when the dwelling house of the late secretary for this province was burnt, at which time many papers were burnt ; and whereas many judgments and sentences have been passed and given at the said court of appeals, and superiour court of judicature, since the altering the respective times for the sitting and holding thereof, and many cases are now depending at the said courts respectively, which must necessarily be discontinued, unless some remedy be provided for the preventing thereof. And whereas the said superiour court of judicature now stands adjourned to the third tuesday of October, one thousand, seven hundred and fifty two (being the seventeenth day of said month) from the first tuesday in August, one thousand, seven hundred and fifty two.

Be it Enacted by his Excellency the Governor, Council and Representatives, convened in General Assembly, and by the Authority of the same :

Time of the sitting of the court of appeals.

That the time for the sitting of the Governor and Council as a court of appeals, be removed and altered from the second tuesday in November to the second tuesday in October, and that it be held henceforward on the second tuesday of October yearly, and every year ; and that the next sitting of the Governor and Council as a court of appeals, shall be on the second tuesday in October one thousand, seven hundred and fifty two. And that all appeals or any other process whatever, already issued, continued or any ways now depending, or that may be depending at said court, shall not fail, or be discontinued, but be valid, and stand good to all intents and purposes in the law, and be heard, tried and determined at said court of appeals, to be held on the second tuesday in October, one thousand, seven hundred and fifty two, as aforesaid.

Former judgment confirmed.

And be it further Enacted by the Authority aforesaid, That all sentences and judgments, passed and given at the said court of appeals, heretofore held on the second tuesday's of October and May, shall to all intents and purposes in the law, be held good and valid, as to the time of the sitting of said court of appeals.

Time of the sitting of the superior court.

And be it further Enacted by the Authority aforesaid, That the time for holding the superiour court of judicature, be removed and altered from the second tuesday's in August and February, and that the said court be held henceforward at Portsmouth in this Province, on the first tuesday's in August and February yearly, and every year ; and that the next superiour court of judicature for this province, shall be held on the third tuesday in October, one

thousand, seven hundred and fifty two, being the seventeenth day of said month, to which day the said court now stands adjourned.

And be it further Enacted by the Authority aforesaid, That all appeals, reviews, recognizances, warrants or other process, matters and things whatever, already issued, taken, filed, or to be filed, continued, or any way depending, or that may be depending at said court, shall not fail or be discontinued, but shall be valid, and stand good to all intents and purposes in the law, and be heard, tried and determined at the said superiour court of judicature, to be held by adjournment on the said third tuesday in October, one thousand, seven hundred and fifty two.

All processes continued.

And be it further Enacted by the Authority aforesaid, That all the sentences and judgments heretofore passed and given at the superiour court of judicature, held on the first tuesday in August, and the first tuesday in February respectively, shall to all intents and purposes in the law, be held good and valid, as if the said court had been held on the second tuesday in August, and the second tuesday in February yearly; and all officers and other persons concerned, are hereby required to conform themselves accordingly.

Confirmation of former judgments.

And whereas the justices of the court of general sessions of the peace within this province, by the law establishing said court, can hold and continue said court but two days, and the justices of said court have no power of adjourning the same any longer, whereby many inconveniencies already have arisen, and many more may arise :

For Remedy whereof,

Be it Enacted by the Authority aforesaid, That it shall be in the power of the justices of the said court, and they are hereby impowered to adjourn the said court from time to time as they shall judge necessary.

Court of general sessions of the peace enabled to adjourn.

AN ACT TO INFORCE THE ASSESSING AND COLLECTING OF RATES AND TAXES.

Pass'd 27th of Geo. 2.

Whereas the neglect or delay of seasonably making and collecting the taxes imposed by law in this province, and to be annually paid, is very prejudicial to the public affairs; for the preventing of which, some further provision is necessary to be made :

Preamble.

Be it therefore Enacted by the Governor, Council, and Assembly:

That the treasurer of this province for the time being, is hereby order'd to issue his warrant, directed to the respective select-men of the several towns, parishes or districts within this Province, obliged to pay any part of the province rates, immediately after the passing of this act, for the present year; and to the select-men as aforesaid, for the time then being after this year, some time in the month of May annually, directing them to assess

The treasurer to issue his warrant in May annually.

the polls and estates within their respective limits, liable by law to be taxed, the sum in bills of credit of this province, each town, parish or district is to pay of said rates, and to pay the same into the province treasury, or cause it to be so paid by the time limited by the respective acts, pursuant to which the same shall be paid, or otherwise agreeable to said acts.

Penalty on select men for neglecting their duty in assessing, &c.

And if any of the said select-men, having seasonably received the treasurer's warrant as aforesaid, shall neglect their duty herein as above prescribed, their person and estates shall be liable, and are hereby subjected to be taken in execution, for the sum they were respectively directed to assess, and cause to be paid as aforesaid, to be issued under the hand and seal of the said treasurer, to be directed and executed as the law directs against delinquent constables, for not collecting and paying the taxes orderly made and committed to them. Provided nevertheless, no such execution shall be issued, until twenty days after the time appointed by the treasurer's warrant for the payment thereof as aforesaid.

The select-men succeeding, authorized to issue executions.

And be it further Enacted, That when any constable shall be liable to an execution as aforesaid, and the same shall not be issued against him within the year for which he is or shall be chosen to serve, the select men for the time being afterwards, are hereby authorized to do the same as effectually to all intents as the select men within the year might have done. And the select-men of any parish, or the church wardens, where any such are or shall be chosen, are and shall be hereby invested with the same power and authority in this respect, as the select-men of towns have by this, and any other act or law of this province.

Select men of parishes &c. the same power as those of towns.

And as the treasurer aforesaid, is by law enabled to issue such execution against any constable, having any part of the province tax to collect, who shall be delinquent therein as aforesaid, the select-men of the said towns, parishes and districts, are hereby directed to send the name or names of the constable or constables, within their respective limits, who shall have any part of the province tax to collect, the sum each is to collect, the date of the warrant given him for that purpose, and the time when he was order'd to pay the same into the treasury, as aforesaid.

Names &c. of constables to be sent to the treasurer.

Collectors chosen to have the same power as constables.

And where any person shall be chosen and appointed to collect rates and taxes, by the name of a collector, instead of constable, he shall be hereby invested with the same power and authority in that regard, which a constable has : and such collector is also hereby subjected to the same kind of process, and to be proceeded against in the same manner, in case of neglect of duty therein, as constables are. And where it is herein directed that the select-men, or church wardens are authorized to do any matter or thing, in pursuance of this act, the major part of them doing the same, shall be valid to all intents, as if the whole had done the same.

Major part of select men &c. the power of the whole.

AN ACT IN ADDITION TO THE SUNDRY ACTS FOR REGULATING THE MILITIA. Pass'd 27th of George 2.

Whereas the acts in force for regulating the militia, do not answer the good ends and designs proposed and aimed at in and by the said acts:

For Remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Assembly:

That each captain or commanding officer of any foot company or troop within this province, shall be, and hereby is obliged to draw forth his foot company or troop respectively, or cause them to be drawn forth into the field four days annually, and no more, to exercise them in motions, the use of arms, shooting at marks, or other military exercises; and any such captain or chief officer neglecting his duty as aforesaid, shall pay a fine of five pounds for each day's neglect, to be paid unto the chief commanding officer of the regiment to which such foot company or troop belongs; and upon such delinquents refusing to pay the same when demanded, it shall and may be lawful, for the chief officer of such regiment, forthwith to issue out his warrant, directed unto any or either of the constables of the town, parish, or district to which such foot company belongs, and unto any constable within this province when the delinquent shall be the captain or commanding officer of a troop or of a foot company in any town, parish or district; and such constables respectively shall and may use and proceed in the method hereafter prescribed for distraining for such fine or fines; such constable to have ten shillings out of each fine for which he shall make distress, for his fee, the residue thereof to be divided in manner following, viz. one quarter part thereof to the officer who grants the warrant, the other three quarters for the use of such company or town, to be laid out by the major part of the field officers: and when paid by such delinquent officer without a warrant of distress, the whole to be disposed of in manner aforesaid.

Trainings to be four times a year.

Penalty.

Chief officer to issue his warrant to a constable to make distress.

Fee.

Application of the residue.

Fine for neglecting trainings.

Fine on troopers neglecting, &c.

Military wardings.

And be it further Enacted, That every person liable by law to train, having been duly warned (not less than eight days notice beforehand to be accounted sufficient, unless in case of an alarm or other extraordinary occasion) who shall not appear and attend the same, shall for each day's neglect pay a fine of ten shillings.

And that every enlisted trooper, who shall not appear at the place and time of exercise, having been duly warned as aforesaid, shall for each day's neglect, pay a fine of twenty shillings. And that every person liable by law to military watchings, shall pay a fine of ten shillings for every defect and neglect, having been duly warned, unless he can make a reasonable excuse. And that every person liable by law to military wardings, shall pay a fine of ten shillings for every neglect of duty, having been duly warned, unless he can make a reasonable excuse.

Clerk to distraint
ex officio.

And be it further Enacted, That the clerk of each respective foot company or troop shall and may *ex officio* distraint for any fine or penalty for the breach of any of the clauses or paragraphs before mentioned in this act (except that for which a warrant is to be directed to a constable) and also for any fine or penalty for the breach of any of the clauses or paragraphs, mentioned in the act made and passed in the fourth year of King George the first, entitled, An act for regulating the militia; except the clauses and paragraphs mentioned in the said act, which are augmented and increased in and by this act. All the fine and forfeitures arising by this act, or the before recited act, to be applied to and for the uses and purposes mentioned in the before recited act, except what is appropriated in and by this act.

Application of
the fines.

Parents or mas-
ters to pay for
minors.

And be it further Enacted, That when and as often as any servant apprentice, or other person under the age of twenty one years liable by law to train or troop, and having been duly warned as aforesaid, shall not attend on military exercises upon training or trooping days, or on military watchings or wardings, the master, mistress, parent, or other person who hath the immediate care and government of such delinquent, shall be answerable for such neglect, and be obliged to satisfy and pay the fine by law imposed for such delinquency and neglect, and shall be liable to a distress for the same, as is above provided.

Commanding
officer may
order soldiers to
carry arms, &c.

And be it further Enacted, That in time of war, it shall and may be lawful for the commanding officers for the time being, whether of foot companies or troops respectively within this province, to order all such under their command, liable by law to train or troop, to carry their arms and ammunition about with them as such commanding officer shall judge necessary; and that every person who shall neglect or refuse to obey and observe such order, being duly warned, shall pay a fine of ten shillings, unless he shall make some reasonable excuse to his commanding officer for such neglect, to be recovered in the same way and manner as before mentioned, by the clerk of the company to which such delinquent belongs, and to be applied to and for the same uses and purposes as mentioned in the before recited act.

Penalty for
neglect.

No person to be
exempted barely
on certificate of
chyrurgeons.

And be it further Enacted, That no person or persons whatsoever, shall at any time hereafter, by virtue of any certificate already given, or hereafter to be given by two chyrurgeons, shall be excused or exempted from bearing arms and attending troopings and trainings and other military exercises and duty in the foot company or troop whereto they respectively belong and are inlisted: or from impresses for his majesty's service, unless for just cause they first obtain an orderly dismissal under the hands of the commission officers of such foot company or troop. And in case they unreasonably refuse the same, then of the first field officer of the regiment whereof such foot company or troop is part; or of the captain general or commander in chief for the time being.

Remedy of dis-
mission.

Extent of militia
acts.

And be it further Enacted, That all and every act or acts relating to the militia within this province, shall extend and be construed to extend as well to plantations not erected into townships,

parishes or districts, as to those erected or that shall be erected into towns, parishes or districts.

And be it further Enacted, That when and as often as any constable shall have a warrant directed to him to make distress on any person or persons, pursuant to this act, it shall and may be lawful for him to attach and take the goods or estate of the person against whom such warrant shall be (excepting such goods as are exempted by law from distress by a constable for rates) and the same to expose to sale at a public vendue, four days public notice of the time and place of sale being first given in writing, and that the overplus, if any be, all necessary charges being first deducted, shall be delivered unto the owner thereof. And that for want of goods or estate whereon to make distress, to take and commit the body of the delinquent person unto his majesty's goal of said province, there to remain until he shall pay the fine and necessary costs arising thereupon.

Power of constables to make distress,

direction how to proceed therein.

And be it further Enacted, That when and as often as any clerk of any foot company or troop shall make distress *ex officio*, he shall not make distress on any goods exempted from, being taken by a constable for rates. And when such clerk makes such distress, he shall expose the same to sale at a public vendue, four days public notice of the time and place of sale being first given in writing, and that he render the overplus, if any be, all necessary charges being first deducted, unto the owner.

Distress made by a clerk *ex officio*, not to be on goods exempted.

AN ACT FOR THE SUPPRESSING OF LOTTERIES.

Pass'd 17th of Geo. 2.

Whereas there have been lately set up within this province sundry lotteries, which have been, and if tolerated, may be attended with many evil and pernicious consequences, not only to individuals, but also to the public :

Preamble.

For Remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Assembly :

That from and after the publication of this act, if any person or persons shall undertake, or set up any lottery, or expose to sale, or dispose of any estate real or personal, by way of lottery, such person or persons shall for such offence, forfeit and pay the sum of five hundred pounds, to be recovered by action of debt, bill, plaint or information, either before the court of general sessions of the peace, inferior court of common pleas, or superior court of judicature within this province, the one half thereof to and for him or them who shall inform and sue for the same, the other moiety to and for the use of this government.

Penalty for carrying on private lotteries.

How to be recovered.

And be it further Enacted, That if any person or persons shall be aiding or assisting in any lottery, by printing, writing, or

Penalty on those
who shall aid,
&c.

any other ways publishing an account thereof, or where tickets may be had for the same, such person or persons shall forfeit the sum of one hundred pounds, to be recovered and disposed of in manner as aforesaid.

Penalty for ex-
posing lottery
tickets to sale.

And be it further Enacted, That if any person or persons shall offer or expose to sale, give, sell, or other ways dispose of to any person within this province, any lottery tickets for the sale of any estate whatsoever, real or personal, such person or persons shall forfeit the sum of two hundred pounds for each ticket so exposed to sale or otherwise disposed of, to be recovered in manner as aforesaid, and for the use aforesaid; and the person so offending shall be incapable of sustaining any office or place of trust or profit whatsoever within this province.

Proviso.

Provided always, that this act shall not be construed to extend to any lottery allowed by act of parliament or law of this province, or any lottery already begun, and not finished.

Pass'd 27th of
Geo. 2.

AN ACT IN ADDITION TO AN ACT ENTITLED, AN ACT, TO RETURN ABLE AND SUFFICIENT JURORS TO SERVE IN THE SEVERAL COURTS OF JUSTICE, AND TO REGULATE THE ELECTION OF REPRESENTATIVES TO SERVE IN THE GENERAL ASSEMBLY WITHIN THIS PROVINCE.

Preamble.

See the new
method of ap-
pointing jurors,
page 202.

Whereas it often happens, that many of the jurors returned by the sheriff or coroner of this province, to serve in the several courts of justice, do not attend; and by reason of challenges made by the parties, to many of the jurors that do appear, there is not a sufficient number to serve at said courts, by means whereof the trials of causes are oftentimes put off to the great delay of justice:

For Remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Assembly:

The courts may
issue venire for
jurymen while
sitting.

That it shall and may be lawful for the justices of the superior court of judicature, the inferior court of common pleas, and court of general sessions of the peace within this province respectively, when sitting, and as often as they shall judge it necessary, to cause a new writ of *venire facias* to be forthwith issued out and directed to the sheriff or coroner of said province, as the case may require, for the appointment and returning of so many good and lawful men to serve as petit jurors at said courts respectively as shall be ordered in such writ; which jurors shall be forthwith appointed, and being summoned and returned to said court respectively, shall be, and hereby are oblig'd to give their immediate attendance accordingly.

Jurors Fee.

And be it further Enacted by the Authority aforesaid, That the fee for the jurors, at the superiour court, shall be forty shil-

lings, new-tenor, in each action they shall try, two thirteenth's whereof shall be to and for the foreman. And that the fine or forfeiture of each juror for not appearing, or not attending the superiour court, being duly summoned and not excused, shall be five pounds new tenor, instead of forty shillings.

Fine for not appearing.

And be it further Enacted by the Authority aforesaid, That when there is a want of a sufficient number of grand-jurors, either at the court of general-sessions of the peace, or at the superiour court of judicature, it shall and may be lawful for the justices of either of the said courts respectively, to order the sheriff to return so many good and lawful men *de talibus circumstantibus* as shall be judged necessary by the justices of said court respectively; and if needful, to order a new writ of *venire facias* to the sheriff to return such a number as the court shall think proper.

Courts may appoint grand jurors *de talibus*, &c.

And be it further Enacted by the Authority aforesaid, That the fee and allowance for grand jurors, shall be three shillings new tenor each, for every ten miles they shall travel out, and the same for every ten miles they shall travel home, and so in proportion for a greater or less number of miles; and five shillings new tenor each, for every day's attendance, to be paid out of the treasury, upon a certificate of the clerk of the court respectively, where they attend.

Fee for grand jurors.

And be it further Enacted by the Authority aforesaid, That the fine or forfeiture for a grand juror's not appearing or not attending, instead of forty shillings, shall be three pounds new tenor.

Penalty on the grand jurors non-attendance.

AN ACT IN ADDITION TO AN ACT ENTITLED, AN ACT FOR THE PREVENTING GAMING IN PUBLICK HOUSES.

Pass'd 17th of George 2.

Whereas the act entituled, An act for the preventing gaming in publick houses, made and pass'd in the seventh year of the reign of his majesty king George the first, doth not answer the good ends and purposes designed and propos'd in and by the said act:

Preamble.

For remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Assembly:

That the fine of twenty shillings, mentioned in the said recited act shall be ten pounds: and the fine of five shillings, mentioned in the said recited act shall be ten pounds. The said fines to be recovered by action of debt, bill, plaint or information, before the court of general sessions of the peace, inferiour court of common pleas, or the superiour court of judicature respectively, within this province; the one moiety thereof to be to and for the use of the person or persons who shall sue or inform for the recovery thereof, and the other moiety thereof to and for the use of this province; or by presentment of the grand jury.

Fines raised.

How to be recovered.

Penalty on
tavern keepers

And be it further Enacted, That every tavernor or innkeeper, who shall be found guilty of the breach of the before-recited act, shall be, and hereby is declared unqualified and disabled for ever after, to obtain or have a licence to keep tavern within this province; and the justices of the court of general sessions of the peace within this province, shall be, and hereby are prohibited from granting licence to any such person or persons.

Pass'd 28th of
George 2.

AN ACT IN ADDITION TO AN ACT, ENTITLED, AN ACT TO INFORCE THE ASSESSING AND COLLECTING OF RATES AND TAXES MADE AND PASSED IN THE TWENTY SEVENTH YEAR OF HIS MAJESTY'S REIGN.

Preamble.

Whereas the before recited act doth not fully answer the ends and purposes proposed and designed in and by the said act :

For Remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Assembly :

Penalty on
select men neg-
lecting to make
assessments sea-
sonably.

That the treasurer of this province for the time being, shall be, and hereby is enabled, authorized and directed to proceed against the select men of any town, parish or precinct within this province, who heretofore have been, still are, or hereafter shall be delinquent and negligent of their duty in making the province rates agreeable to the respective warrants they have already received, or hereafter shall receive from the treasurer of this province, for making such rates, or in returning to the treasurer the name of the constable or collector respectively, who was to collect the same, or hereafter shall have such rates committed to them to be collected, in the same manner, and take the same remedy as is by law prescribed to be taken against any constable, who is negligent in collecting any such taxes, or for not paying the money when collected, agreeable to the warrant or orders given him for that end. And the polls and estates of such delinquent selectmen shall be and hereby are subjected to the same.

Pass'd 31th of
Geo. 2.

AN ACT IN ADDITION TO AN ACT ENTITLED, AN ACT TO PREVENT FRAUD IN CORD-WOOD EXPOSED TO SALE, MADE AND PASS'D IN THE THIRTEENTH YEAR OF THE REIGN OF HER LATE MAJESTY QUEEN ANNE.

Preamble.

Whereas it often happens that persons who expose wood to sale by the cord, refuse to have the same measured by a sworn wood corder ; and whereas there is no provision made in the before

recited act to oblige them thereunto, whereby the said act is of little or no benefit or advantage :

For Remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Assembly :

That when and as often as any person or persons shall sell by the cord any wood that shall be brought by land or water, the same shall be measured by some sworn wood-corder in the town or parish where the same shall be sold, if any such wood-corder there be, whether chosen by the town or parish, or appointed by the select-men thereof respectively, on the penalty of five pounds to the buyer, and on the penalty of five pounds to the seller, the one half thereof to the informer, and the other half thereof to and for the use of the poor of the town or parish where such wood shall be sold, to be recovered before any one of his majesty's justices of the peace within this province.

Cord-wood to be measured by a sworn corder.

Penalty on buyer and seller neglecting.

And be it further Enacted by the Authority aforesaid, That the penalty on any sworn wood-corder for refusing to do his duty when thereunto required, shall be the sum of five pounds, unless he can give sufficient reason for refusing, to and for the use aforesaid, and to be recovered in manner as aforesaid. That the fee for measuring be six pence per cord, to be paid by the buyer.

Penalty on the wood corder for refusing, &c.

AN ACT, AUTHORIZING THE CHUSING OR AGREEING WITH PERSONS TO COLLECT THE PUBLIC TAXES, AND ENABLING AND OBLIGING THEM TO DISCHARGE THAT OFFICE IN THE SAME MANNER AS CONSTABLES MAY, AND BY LAW ARE OBLIGED TO DO.

Pass'd 31th of Geo. 2.

Whereas it is thought by many persons, that chusing or agreeing with suitable persons to collect the public taxes within the several towns and parishes in this province, would be a more expeditious (as well as otherways a more convenient) method of collecting the same, than the usual way of the constables making those collections, if the persons that might be so appointed to that service, had the same power in that regard that constables have by law :

Preamble.

Be it therefore Enacted by the Governor, Council, and Assembly :

That any town or parish within the province of New-Hampshire may, whenever they shall judge it proper, chuse any number of such persons as they shall see cause, to collect the public rates, taxes, or assessments made annually within the same, or may direct and authorize the select men of such town or parish, to chuse and agree with such persons to be collectors of the rates, taxes, and assessments aforesaid ; and the warrants for levying and col-

Liberty granted to towns, &c. to hire collectors of rates.

lecting the same, shall be made in the usual and customary form within the respective towns and parishes, only directed to such collector instead of a constable. And every such collector being sworn to the faithful discharge of his office according to law, shall hereby be authorized and enabled to collect and levy the rates, taxes and assessments committed to him, as fully and effectually and in the same manner that any constable by law is enabled to do, when such warrant is directed, and such rates committed unto him; and the said collectors are hereby directed to observe the same rules in collecting and levying such rates and taxes as are by law prescribed to constables in such cases, and shall hereby have the same power and authority to execute the same that the law has given and granted to any constable for collecting and levying any rates, taxes and assessments.

Their power.

Penalty on neglect of duty.

And every such collector taking upon him the said office as aforesaid, who shall prove delinquent in not perfecting and accomplishing his collection, and paying the same agreeable to his warrant, shall be liable and subjected to the same kind of process; and the town or parish for which he was employed as a collector, shall have the same remedy against him and his estate, as is by law given and granted against constables in such cases.

Who shall issue the execution.

And whereas some doubt has been made who were the persons intended by the law to sign and issue the process aforesaid against defective constables in such cases; for removing of which doubt,

Be it Enacted, That when the money not collected is due to the province, or is for the province rates, the execution to be issued against such defective or delinquent constable or collector, shall be under the hand and seal of the treasurer of this province for the time then being. When the said money is for the use of any town, then such execution shall be issued under the hands and seals of the select men of such town, or the major part of them for the time then being. And when such money shall be for the use of any parish, such execution shall be issued under the hands and seals of the wardens or select men of such parish or the major part of them (without any justice of the peace joining therein, as was directed by a former law) for the time then being, when such executions shall be issued.

Pass'd 17th of Geo. 3. but suspended for the Royal approbation, which has been signified and publish'd here 24th of Feb. 1758.

Preamble.

AN ACT FOR CHUSING OF GRAND JURORS, AND DIRECTING THEIR SERVICES.

Whereas the faithful discharge of the duty of grand jurors is a matter of great importance, to the due execution of the laws of the province, against criminal offenders, and to the peace and good order of the government: For the proper discharge of which office, the knowlege of those laws is necessary; and persons qualified to serve, in this as well as other respects, are best known to the respective inhabitants, of the town where they live. And whereas the general assembly of this province, has lately passd

an act, for the appointment of petit jurors, different from former practice, and it being judged that a new method (as prescribed in this act) will also be more beneficial, for the public peace and good order, than the former, of appointing the grand jury :

Be it therefore Enacted by the Governor, Council, and Assembly :

That the clerk of the court of general sessions of the peace, for this province, shall thirty Days at least before the sitting of said court, in the month of September annually, issue out writs of venire facias, directed to the clerks of the respective towns and parishes, (invested with the rights and privileges of towns,) within this province, to such as the said court shall order, the term before, the issuing of such writs, directing them to warn a meeting of all persons, (qualified by law to vote in the common affairs of towns) within their respective limits, to be held at such time and place as said warning shall appoint, to chuse such a number, of good and lawful men, as the said writs shall express, to serve as grand jurors, at the said court. And the said qualified voters, who shall be present at such meeting, shall hereby have power and authority, to chuse a moderator, as in other cases, and then to proceed to the choice of such a number as aforesaid, living within the said limits, by the majority of said voters present. And the said clerk shall send a notification in writing, to the person or persons so chosen, giving information thereof, which shall be deliver'd to him, or them, or left at his or their respective dwelling houses, at least six days before the day of the sitting of said court. And the said town, or parish clerk, is hereby order'd, to cause said writs to be return'd, to said court, agreeable to the direction thereof, with the name, or names, of the person, or persons, so chosen, and that they have been duly notified. And every person, whose name shall be so returned, making default of appearance at the said court, or refusing to serve, in said office, who shall not be excused by said court, shall forfeit and pay the sum of three pounds.

And when any person shall be chosen, as aforesaid, who shall make a sufficient excuse, to the voters aforesaid, they may accordingly excuse such person, and proceed to a new choice. And every town, or parish clerk, who shall neglect his duty herein, shall forfeit and pay the sum of five pounds.

And the persons so return'd, who shall not be excused, nor pay as aforesaid, shall be impannelled, and sworn, a grand inquest for the body of this province, and shall continue in said office for the term of one full year, commencing as aforesaid, and until others shall be chosen and sworn in their stead ; who shall attend the said court at every session thereof, during the term aforesaid.

And whereas it is necessary that a grand jury, should from time to time, attend the superior court of judicature, at which other and more important matters are presentable, or indictable, than, at the said court of general sessions of the peace :

Be it therefore Enacted, That for the future, after his majesty's approbation of this act shall be known, the clerk of the said superior court of judicature, shall thirty days at least, before the day

A venire to be issued to the clerks of the towns, &c. 30 days before the court, to call a meeting to chuse persons as said writ shall direct, to serve as grand jurors.

Notice to be given to the persons chosen.

The venire facias to be return'd as it directs &c.

Penalty on the jurors, &c.

The town &c. may excuse any, and chuse others.

Penalty on the town clerk &c. for neglect.

The persons return'd to be the grand jury.

A particular choice to be made for the sup. court.

Clerk of the sup. court to send a venire thirty days before the

sitting of the court to the town clerks, &c. directing them to call a meeting to chuse as the venire shall direct, to serve as grand jurors at said court.

The town-clerk to make due return of the writ and names of the persons chosen.

Penalty on those who do not serve if not excused.

Penalty on the town clerk for neglect of his duty.

The sheriff by order of court may return *de talibus*, &c. as there may be occasion.

Grand-jurors how to be paid.

appointed by law, for the sitting of said court, at every term thereof, issue out a venire facias, to each town and parish clerk, (as aforesaid) which the said court shall order, directing them, to warn a meeting of the qualified voters aforesaid, within their respective limits, to meet and chuse so many good and lawful men, as the said writs shall direct, for each town, or parish, (which shall always be agreeable to the direction of said court the term before, both as to places and number of persons,) to serve as grand jurors, at the said superior court, at the then next term, and to make due return of such writs, at or before the opening of said court, with the names of the persons, who shall be so chosen, and notified as aforesaid, which shall be observed and done in this case. And the persons, whose names shall be so return'd and not excused by the said court, shall be liable to the same fine, or forfeiture as aforesaid. And the town or parish clerk, who shall neglect his duty herein, shall be liable to the pains and penalties, which such clerks are hereby subjected to, in the case aforesaid. And the persons so return'd, and not excused, nor fined, shall from time to time, serve at the said superior court as grand jurors.

And be it further Enacted, That the sheriff of said province, is hereby authorized, upon orders given by said courts, to return grand jurors, *de talibus circumstantibus*, as occasion shall require, and the said courts shall judge necessary, and the said sheriff is hereby directed, to do the same accordingly.

And the grand jurors shall be paid agreeable to an act of this province, in that case already provided. *Provided*, Nevertheless this act not to take effect, or be in force until it has received his Majesty's approbation.

Pass'd 27th of George 2. but suspended for the Royal approbation, which has been signified, and published here the 24th of Feb. 1758.

Preamble.

AN ACT DIRECTING AND REGULATING THE APPOINTMENT AND CHOICE OF PETIT JURORS.

Whereas the usual method of returning petit jurors, to serve at the several courts of justice, within this province, (at which juries are by law to attend,) by the appointment and summons of the sheriff, is found by experience to be very inconvenient, (and more especially as the business of said courts increases,) by reason of exceptions arising from the interest, or relation of the sheriff, which occasion the attendance of a number of jurors, summon'd by a coroner, (which must always be sufficient to allow for particular exceptions,) for such causes as cannot be legally tried by the sheriff's jury, which occasions a great expence of time, and loss of the labour of many persons yearly, to the great grievance and complaint of his Majesty's good subjects of this province, as well as the public detriment. Moreover, the appointing and summoning of juries, is now become a very burthensome service to the sheriff, which must be paid out of the public treasury, and thereby augment the public charge, (already as heavy as can be well sustained) or go unrewarded.

For the redress of all which inconveniences ;

Be it Enacted by the Governor, Council, and Assembly :

And by the authority of the same, it is hereby enacted and ordained, that the select-men of each town, and of each parish, (having the privilege and power of towns) within this province, shall within two months next after his majesty's approbation of this act shall be known, take a list of the names, of all persons, living within their respective limits, qualified by law to serve as petit jurors, and shall chuse out of such list one third part of the number of the names, (contain'd therein,) of such persons, as they shall judge most suitable, to serve as jurors, at the superior court, and shall write their names on separate pieces of paper, and put them into a box, to be by said select-men provided for that purpose, and the remainder of the names in such list, to be written as aforesaid, and put into another box, to be so provided, and the persons whose names shall be so put in the last mentioned box, shall serve on the petit jury at the inferior court of common pleas, and court of general sessions of the peace, which boxes shall be deliver'd to the town or parish clerk, to be by him kept under lock.

The selectmen of each town, to make lists of the names of persons qualified to serve on the petit jury at the courts of justice, to write the names on separate pieces of paper and put them into boxes, &c.

And be it further Enacted, That the venire facias for said jurors, shall be issued by the clerks, of the respective courts aforesaid, thirty days at least, before the day of the sitting of the court, to which it is returnable: and shall be directed to the clerk of the town, or parish, requiring him, to cause so many persons, to be appointed and return'd of those duly qualified, within the town or parish of which he is clerk, as shall be mentioned in the venire, (and as shall be order'd by the justices of said courts respectively) who shall thereupon immediately, notify a town, or parish meeting, according to the customary method of calling such meetings, within such town, or parish respectively, to be held at least six days, before the sitting of the court, to which the venire is returnable. And that such appointment of jury-men, may be fairly and impartially transacted, the town or parish clerk, or in case of his absence or sickness, one or more of the select men, shall carry into the meeting, the proper box locked, which shall be unlocked there, and the town or parish clerk, or a select man attending as aforesaid, shall draw out of the said box, before all the persons assembled, so many of the papers in said box, as there are jurors required by the venire, and the persons whose names shall be so drawn out of said box, shall serve accordingly. Excepting, any whose names shall be drawn shall be then sick, or otherways unable to serve, in the judgment of those upon that occasion assembled. In which case their names shall be return'd into the box, and others drawn in their stead. And that the same persons may not serve too often, the clerk or select-men, who shall draw out the names as aforesaid, of such as shall be return'd to serve as jurors, shall enter on the back of the paper, on which such names shall be written, the time when such draught shall be made, and return the same into the box again. And no person shall be obliged to serve as a juror (altho' his name shall be drawn as aforesaid) oftener than once in

The venire facias how to be issued and directed.

To be done 30 days at least before the sitting of the court to which it is returnable.

Method of appointing them.

Names to be drawn out of the box.

Who may be excused.

The names of those who serve, to be enter'd on the Paper, &c.

None to serve oftner than once in three years.

three years. And for the more orderly proceeding at such meeting, the qualified voters in town affairs, who shall be present, may and shall first proceed to chuse a suitable person, then present, to be moderator of the meeting, and to govern and regulate the business of such meeting. And until a moderator shall be so chosen, the town clerk, or in case of his absence as aforesaid, a select-man, shall govern the said meeting. And the select-men aforesaid, shall once every year, regulate the said lists, by adding thereto any new names, of persons becoming qualified since the last regulation; and by filling up the vacancies made by death, or other disability, in the said boxes: and also by transferring the names from one box to the other, as there may be occasion, by the addition of young men's names, to the list, or otherways. And when any person shall be appointed to serve as a juror, in manner aforesaid, the town or parish clerk shall send a notification thereof in writing, by the hand of a constable, to the juror, which shall be deliver'd to him, or left at his dwelling-house, at least four days before the day of the court's sitting, at which he is to serve; which notification shall set forth the time, when such juror's name was drawn, the name of the court, at which he is to serve, and the day when he must appear there. And the said town and parish clerk respectively, shall certify to the clerk of the court, who issued the venire, on the back thereof, the names of the persons, so appointed to serve as jurors, and that they have been duly notified as aforesaid, at least the day before the sitting of the court, to which the venire is returnable. And if any person who shall be so appointed and notified to serve as a juror, shall neglect to attend accordingly, he shall be liable and subject to the fine and penalty provided, and inflicted on jurors making default of appearance, by the laws now in force.

Lists to be regulated once a year.

Town clerk to send notice to the persons appointed.

Names of the jurors to be certified on the venire.

Penalty for not attending.

The court may put jurors to answer upon oath respecting their impartiality.

And be it further Enacted, That the justices of the respective courts aforesaid, are hereby directed upon motion from either party in the cause to be tried, to put any juror, to answer upon oath, whether return'd as aforesaid, or as a talis-man, whether he doth expect to gain or lose by the issue of the cause then depending? Whether he is in any ways related to either party? And whether he hath been of council to either party, or directly or indirectly given his opinion, or is sensible of any prejudice in the cause? And if it shall appear to the court, that such juror does not stand indifferent in said cause, he shall be set a-side from the trial of that cause, and another appointed in his stead. And the sheriff and coroner respectively are hereby authorized, to fill up a jury by appointing tales-men as before the passing of this act.

Jurors may be appointed during the sitting of the court.

And be it further Enacted, That the law relating to the appointing of jurors, during the sitting of the court, shall serve for the appointing them, according to this act. That is to say, a sufficient number of jurors may be appointed, and summon'd, while the court is sitting, as said act provides, but the venire shall be issued to the town or parish clerk, and the names drawn, according as this act directs. And in such cases the town, and parish clerk respectively, shall order the constable, or constables, of the town or parish respectively, to warn a meeting forthwith, and the number of

jurors requir'd in the venire, shall be immediately drawn and appointed as aforesaid, and notified to attend the service of the court, from whence the venire issued, which shall be returned as soon as may be. And the jurors so appointed, and notified, shall immediately attend accordingly, on the pains and penalties aforesaid, in case of neglect so to do. And the town and parish clerks aforesaid, shall be paid for the services injoin'd them by this act, what is reasonable, by the towns and parishes in which they serve yearly. *Provided nevertheless*, this act not to take effect, or be in force, until it has receiv'd his majesty's approbation.

Penalty on such
for not attending.

AN ACT FOR ALTERING THE TIMES APPOINTED BY LAW FOR HOLDING THE SEVERAL COURTS OF JUSTICE, AND OTHER MATTERS RELATIVE TO THE BUSINESS OF SAID COURTS, THEREIN MENTION'D.

Pass'd 13th of
Geo. 2.

Whereas the times fixed for the commencement of the superior court of judicature, inferior court of common pleas, and court of general sessions of the peace, for this province, by the law constituting said courts, tho' they might be suitable to the state of the province when said law was pass'd, are found by experience to be now very inconvenient, by reason of the increase of the business of said courts — The much greater distance many persons who are obliged to attend them, have now to travel, than any had at that time — The alteration of the style, which brings them on so much sooner, and interferes more with the business of husbandry, and happens at such seasons as are with more difficulty attended. The commencement of the terms of the inferior court of common pleas, and the court of general sessions of the peace in the same week, whereby neither of them can finish the business before them in that week, which both of them might generally do, by commencing the term of each of said courts on a tuesday in different weeks.

Preamble.

For Remedy whereof,

Be it Enacted by the Governor, Council, and Assembly:

That henceforth the commencement of the terms of the several courts aforesaid, shall be as follows, viz. The terms of the said superior court, shall begin on the the third tuesday of May and the second tuesday of November annually. The terms of the said inferior court, of common pleas shall begin on the first tuesdays of March, June, September and December annually. And the terms of said court of general sessions of the peace shall begin the second tuesdays of the same months annually, appointed for the inferior court as aforesaid. And all writs and every other kind of process whatsoever issuing out of, returnable to, or that shall be brought before said courts respectively, and of which they have legal cognizance, shall be made conformable hereunto, adjudged and determined accordingly. As also all

The times of the
commencement
of the several
courts of justice
as now fixed.

All processes to
conform thereto.

actions, causes, matters and things now pending, and under continuance in any of said courts, as fully, amply and effectually to all intents, as if no such alteration had been made.

Writs may be serv'd by copy, &c.

And be it further Enacted, That the service of any writ of summons, scire facias, or any other, where no estate shall be attached, may be made by reading the same to the defendant or defendants therein named, or the person or persons against whom such process shall be issued; or by leaving an attested copy thereof signed by the officer, legally authorized to serve the same, at the last and usual place of the abode of such defendant, or persons to be notified. And any writ returnable to the said superior court of judicature, or inferior court of common pleas, being served fourteen days or more (in which computation the day of service may be included) before the return day therein mentioned, shall be adjudged to be legally served in point of time.

See L. Raym. Rep. 1. Vol. 281.

Petit jury not to attend till the 2d day of the sitting of the court of common pleas and general sessions of the peace.

And be it further Enacted, That the petit jurors at the court of common pleas, and general sessions of the peace aforesaid, shall not be obliged to attend until the second day of the sitting of said courts respectively, at every term. That the said courts may proceed upon, and determine all pleas in bar of actions, abatement of writs, and all other matters and things not to be committed to the jury, that their time and attendance be not unnecessarily required.

Venires to be issued accordingly.

And the clerks of said courts are hereby directed to make out their writs of venire facias accordingly.

Pleas in bar and abatement to be filed before the jury is impanelled.

And all pleas in bar of any action or process, and in abatement of any writ or other process, to be made at said courts respectively, shall be made and filed with the clerk of the court before the jury shall be impanelled.

Courts may be adjourned by procla.

And be it further Enacted, That when there shall be any special occasion to adjourn the said superior or inferior court, which shall be known or foreseen before the day appointed for the sitting of such court as aforesaid, it shall be lawful for any two of the justices of said court to issue a writ under their hands and seals, directed to the sheriff of said province (therein inserting the occasion) ordering him to adjourn such court to such time as they shall direct in said writ, which shall be as soon after the term day as the circumstances and state of affairs will admit. And the

Writs to be issued to the sheriff.

sheriff upon the receipt of such writ, shall cause a notification thereof in writing, to be posted up at the house where such court was to be held, and shall also cause the same to be made known in the most public places, and most notorious manner he can, to prevent all unnecessary travel, attendance and other charge. And such court shall be thereby accordingly adjourned. And the sheriff shall return such writ into the clerk's office of the court so adjourned. And all writs and other process whatsoever returnable to, or pending in said courts, so adjourned, shall be as good and effectual to all intents, and shall be so construed and adjudged, as if no such adjournment had been made. And such writs and processes may be delivered into court on the day such court shall sit by said adjournment.

How the sheriff is to proceed.

Writs to be return'd.

AN ACT TO PREVENT THE KILLING OF WILD DEER, AT UNSEASONABLE TIMES. Pass'd 31st of Geo. 2.

Whereas the increase of Deer, is found by experience, to be very serviceable; that neither the flesh, nor the skins of those animals, are of much value, when killed at certain seasons of the year, in comparison with what they are at other seasons. And if they were killed only at such seasons, there would be, not only a greater increase and plenty of them, but a much greater benefit accruing by them. Preamble.

Be it therefore Enacted by the Governor, Council, and Assembly:

That if any person, or persons, shall kill any buck, doe, or fawn, within this province, at any time between the last day of December, and the first day of August, annually, such person or persons shall forfeit and pay for every buck, doe or fawn so killed, by him, her or them, the sum of fifteen pounds. The one half to and for his majesty's use, towards the support of this Government, and the other half, to and for the use of any person or persons, who shall inform and sue for the same. To be recover'd before any one of his majesty's justices of the peace, for said province, by information or action of debt. And any such justice shall hereby have cognizance of, and be authorized to hear, and adjudge any such cause. But it shall be lawful, for either of the parties concern'd, to appeal from the sentence of such justice, to the next inferior court of common pleas, there to be tried by a jury, if the appellant shall desire it, and the matter of fact is in Question. But no farther appeal shall be granted. Deer not to be killed between the last of Dec. and first of August.

And as it is often very difficult, to prove the killing of deer, as aforesaid, by eye witnesses, or any positive evidences, as it is frequently done privately, and in places remote from witnesses :

Therefore,

Be it further Enacted, That when any such information, or action, shall be prosecuted, and there is no witness to prove the fact, charg'd in such process, it shall be lawful for the prosecutor, to make oath, that such fact has been done, at or about the time alledged; and that he, she, or they, suspect the party so accused, to be guilty of the fact, then it shall be lawful for such party, to acquit him, or her self upon oath, and unless he, she, or they, shall so do, by swearing, that they are not guilty, directly nor indirectly, neither by themselves, nor with others, of said fact, nor have any knowledge how the same was done, such party accused, shall be deemed guilty, and pay the penalty aforesaid. But upon taking such oath, shall be acquitted, unless the prosecutor shall produce sufficient evidence, to the court, or jury, who shall judge of the fact, to convince and satisfy them, of the truth thereof. Which the prosecutor may do, the taking, or offering to take, such oath notwithstanding. The oaths to be administred, by the justice, or court, where the cause shall be tried. And one credible witness, Penalty for so doing.

How to be recovered viz. before a justice of the peace.

An appeal allow'd.

Method of Proof.

The party accus'd may acquit himself upon oath, where no evidence against him.

Yet if the prosecutors can produce proof such oath shall be no acquittal.

shall be deemed sufficient evidence, to prove the truth of the fact in such cases.

The Grand jury may present such offence if no prosecution :

But no prosecution where there is first a presentment.

Penalty on a second conviction :

Several guilty of one fact incur but one penalty.

Every town and parish to chuse deer keepers every year.

Their power.

Power to apprehend such with whom flesh of deer or skins are found.

Persons commanded to assist, liable to a penalty for refusing.

Penalty on the town or parish which shall not chuse such officers.

And be it further Enacted, That the grand jury may present any person, or persons, who shall be guilty of a breach of this act, to the court of general sessions of the peace. And in such case, the whole of said penalty, when incurr'd, shall be for his majesty's use as aforesaid. *Provided*, That no such presentment, shall be sustain'd by said court, for any such fact, for which a prosecution is first commenced as aforesaid, nor such prosecution be sustain'd, after the same fact is so presented. And the same method of proof, shall be allowed on such presentment, saving that such presentment shall be adjudged, sufficient to put the party accused, upon acquittal by oath as aforesaid. And every person, who shall be proved guilty of a breach of this act, twice in one year, shall upon the second conviction, forfeit and pay, thirty pounds, for the use aforesaid. And when two, or more persons shall be convicted of one and the same offence, as jointly concern'd therein, they shall only incur the penalty aforesaid, among them all, as one offender.

And be it further Enacted, That every town, and parish, (having town privileges,) within this province, shall, at their annual meeting, every year, make choice of two suitable persons, inhabiting within the same, respectively, whose peculiar office and duty shall be, to prevent as much as may be, the breach of this act. And shall hereby have full power to search in any places, within their respective limits, and to open any doors, chests, or other places lock'd, or concealed, where they shall have any reason to suspect any flesh or skin, of buck, doe or fawn, to be hid, which shall be kill'd contrary to this act. And they shall also hereby have full power, *ex officio*, to apprehend, (and when necessary, to command assistance for the same,) any person or persons, in whose hands or possession, he or they shall find any flesh, skin or skins of deer, and carry such person or persons before the next justice of the peace, for said province, who is hereby authorized to demand sufficient security, (according to the nature of the offence, supposed to have been committed,) of and from such person or persons, to answer and satisfy the judgment that shall finally be given against him or them, on an information or action, to be commenced as soon as may be, for the trial of the supposed offence : and in default of giving such security, to commit such person or persons until they shall find the same. And every person who shall be commanded to assist as aforesaid, who shall refuse, shall forfeit and pay for his majesty's use as aforesaid, the sum of five pounds. And these officers shall be sworn to the faithful discharge of this trust annually. And whoever shall be chosen to serve therein as aforesaid, and shall refuse, he shall forfeit and pay for the use of the town or parish which chose him, the sum of five pounds : to be recovered by the select-men of the same, for the time being, by action of debt.

And every town and parish aforesaid, which shall neglect to make choice of such officers annually, shall forfeit and pay for his majesty's use as aforesaid, the sum of twenty-five pounds, for every

year's neglect: to be recovered by action of debt, by the treasurer of this province for the time being.

And the court of general sessions of the peace, shall hereby have power, and are directed to appoint one or more person or persons, to serve in the said office, of preventing the unseasonable killing of deer, for all such places within this province, as are not incorporated, where there are ten, or more families inhabiting. And the person or persons so appointed, shall be liable to the same penalty, in case of refusal to serve, as those chosen in towns: to be recovered by the clerk of said court, in an action of debt, for the use of the inhabitants of the place, for which he or they were so appointed. Which appointment shall be made annually, by said court, as soon as they shall be inform'd of any such place.

Court of general sessions of the peace to appoint in case of ten or more inhabitants not incorporated.

Penalty:

And this act shall supersede all other methods of prosecution, for the offence of killing deer as aforesaid. But shall not be construed, to relate to tame deer, or such as are kept by any particular person, or persons.

This act to supersede other methods of prosecution.

This act shall be publicly read, at every annual town meeting, and every parish meeting, (being such as are above-mentioned,) and at the opening of every court, of general sessions of the peace, for said province.

To be read at town meetings &c.

AN ACT TO IMPOWER WATCHMEN TO APPREHEND AND COMMIT DISORDERLY PERSONS AS IS THEREIN DECLARED.

Pass'd 33d of Geo. 2.

Whereas it is judged very expedient, that a walking watch should be kept in such towns in this province as shall think proper to support the same, to prevent house-breaking, stealing, and other disorders, as well as to make seasonable discovery of fires; but as the persons employed in that service may not have authority *ex-officio*, to restrain any one they have reason to suspect or find engaged in any such crimes, they may be exposed to insults and suits: Wherefore for their security, and to enable them the better to effect that part of their duty:

Preamble.

Be it Enacted by the Governor, Council, and Assembly:

That the select-men in any town which have or shall at any legal meeting determined to maintain such a watch, are hereby authorized to agree with so many suitable persons as the town have, or shall order, as aforesaid, for performing a walking watch in such town, and appoint their limits and station, and all things requisite for said service, and to give them such instructions as they shall judge proper for the best execution of the office of such watchmen, as also to pay them according to such agreement. And such watchmen shall have by virtue hereof, full power to restrain any person or persons they shall find committing any kind of disorder or disturbance, or any crime, or such as are strolling about the streets or high-ways at unseasonable hours, who refuse to give any, or may justly be suspected to give a false account of their business or

Towns may at any legal meeting determine to maintain a watch, and the select men may agree with suitable persons.

design, or who can give no account of the occasion of their being out. And for this purpose, such watchmen are hereby authorized to command assistance as occasion shall require, and to commit the offenders to the common goal, where that may be done, or put them under keepers, till they can be carried before one or more justice or justices of the peace for said province; which such watchmen are hereby authorized and directed to do as soon as may be the next day, in order to the examination of such offenders, and their being dealt with according to law.

Watchmen may
command assist-
ance:

May commit,
&c.

Watchmen to
follow instruc-
tions.

Persons required
to assist the
watch.

And the said watchmen are hereby authorized, to execute and discharge the duty and instructions, which they shall receive from time to time from the select-men, with whom they shall agree as aforesaid, and are accordingly directed so to do; and shall be under oath, to be administred by any of his majesty's justices of the peace for said province, to the faithful discharge of their trust, agreeable to their contract with the select-men.

And every person duly required and commanded to assist the said watchmen, or any of them, to apprehend or keep any of the offenders aforesaid, or to commit them, pursuant to this act, who shall neglect or refuse so to do, shall be liable to the same penalty by law inflicted, for neglecting or refusing to assist the sheriff in cases where they are by law required.

Pass'd 29th of
Geo. 2.

AN ACT FOR THE MORE EASY AND SPEEDY PROSECUTION OF ACTIONS OF EJECTMENT, AND FOR ASCERTAINING THE FEES FOR GIVING SEIZIN THEREIN.

Be it Enacted by the Governor, Council, and Assembly:

No bail in
actions of eject-
ment.

Writ not to be
abated because
all the tenants
are not sued.

Fee for serving
writ of posses-
sion.

That in any action of ejectment, or trespass and ejectment, which shall hereafter be brought within this province for recovering possession of any real estate, no person against whom the same shall be bro't shall be held to give special bail, but his or her own bail shall be deemed sufficient to answer the same. And in any such action, the writ shall not be abated, because all the tenants are not sued, but those on whom the writ shall be served, shall answer for such part of the premisses demanded as they claim, which they shall distinguish and set forth in their plea, and disclaim the remainder, and if any shall disclaim the whole, unless the plaintiff shall prove each disclaimers possession of all or part of the premisis demanded, they shall recover costs against the plaintiff.

And the sheriff shall be intituled to demand, and have of the plaintiff, for the service of a writ of *habere facias possessionem & fieri facias*, the same fee as for service of the original writ of summons, or attachment in the cases aforesaid, together with the poundage for levying the costs, as the law directs, for levying money in other executions, and for serving any writ of seizin or possession where there is no costs to be levied, the same fee shall be paid as the law gives for serving the original writ, which was the first process in the case, and no more in any of the cases aforesaid.

AN ACT FOR REGULATING CATTLE, CORN-FIELDS, AND FENCES. Pass'd 4th of Geo. 1.

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That in all common fields under improvement, every party interested shall from time to time make good his part of fence; and the owner or owners of the major part of such fields, shall order to limit the proportion of cattle that shall be put to feed thereon annually, the time when, and manner of improvement thereof, which is to be observed by all persons interested therein, on pain to answer all damages that shall come thereby.

Persons interested in common fields to make good their part of fences.

And where land has formerly been improved in common, and any one owner of such lands, be minded to improve his part in severalty, if there be no agreement binding to the contrary; the owner of the land next adjoining to him shall bear the one half of the charge of the fence against him, who shall improve in severalty: but where lands lie in common unfenced, if one owner shall improve his part by fencing in severalty, and the other shall not, he who shall so improve shall secure his land against other mens cattle, and shall not compel him that joineth upon him to make any fence with him, except he also shall improve in severalty as the others do.

Lands improved in severalty which formerly was improved in common, how

And where one man shall improve before his neighbour, and so make the whole fence, if after, his said neighbour shall also improve, he shall then satisfy for half the others fence against him according to the present value, and shall maintain the same.

Half the fence to be paid for,

And if the first improver shall after lay open his said field, then the neighbour shall enjoy his said half fence to his own use purchased, as aforesaid; and shall also have liberty to purchase the other half fence, paying according to present valuation to be made by two men indifferently chosen by either party.

First improver laying open his field, shall sell his part of fence.

And be it further Enacted by the Authority aforesaid, That the select-men or towns-men shall from year to year appoint two or more in each town, if need require of the inhabitants thereof, to view all common fences, and to take all due notice of the real defects and insufficiency thereof, who shall forthwith acquaint the owners thereof with the same; and if the said owners do not within six days time or otherwise as the viewers shall appoint, sufficiently repair their said defective fences, then the said viewers shall forthwith repair or renew them; and shall have double recompence for all their cost, labour and care, to be paid by the owner of such insufficient fence or fences; and shall by warrant from any justice of the peace levy the same, either upon the corn or other goods of the delinquent.

Fence viewers to be appointed,

who shall view fences and give notice to owners of defects.

And the said fence-viewers shall twice every year view fences, and such as they return sufficient shall be accounted good for three months after, unless proof be made that it is impaired: and such fence as is accounted sufficient against other cattle shall also be

Twice a year to view fences.

accounted good and sufficient against swine and sheep; and the owners to be liable to satisfy for damages done by them.

Unruly horses to pay double damages.

And it is further Enacted by the Authority aforesaid, That all unruly horses, or other unruly cattle, having been so adjudged by the select-men, shall be liable to double damages.

A pound to be provided in every town.

And it is also Enacted by the Authority aforesaid, That there be one sufficient pound or more made and maintained in every town within this province, for the impounding swine or cattle found damage feasant.

Select-men to make orders for preservation of corn.

And it is further Enacted by the Authority aforesaid, That it shall be in the power of the select-men of the several towns to make such orders as shall be necessary to preserve corn, and to determine what shall be accounted a sufficient fence against all sorts of cattle.

Pass'd 17th of Geo. 2.

AN ACT TO REGULATE THE MAKING AND REPAIRING OF FENCES, BETWEEN IMPROVED LANDS.

Whereas it often happens, that persons who own lands joining, differ about fencing the same, whereby one party is obliged to make the whole division fence at his own cost, or loose the profit of his land :

For Remedy whereof,

Be it Enacted by his Excellency the Governor, Council, and Representatives, in General-Assembly convened, and by the Authority of the same :

Owners of lands that join to make each half the partition.

That the owners of lands adjoining, that are under improvement, shall be, and hereby are obliged to maintain the fences that divide or run between their said lands jointly, each party making half (having regard to the difficulty of making such fence, as well as to the distance or length it is to be made, so as to divide the same equally.) And if any owner or owners of any such lands (after having two months notice from the owner or owners of the adjoining lands, of his or their design to fence and improve said lands, belonging to him or them) shall not make up his or their part as aforesaid, the other owner or owners may proceed to make the whole of such fence at his or their own cost, and after the same shall be done, may apply to any one of his majesty's justices of the peace for said province, who shall issue a warrant to three suitable persons, not interested, to value and apprise such fence, and to make return to such justice upon oath, of the truth and impartiality of such valuation and appointment; of all which the said justice shall make a fair record, and shall be paid for the same by the party at whose request it is done, the same fee as for other warrants, and for such record after the rule of the recorder's or clerk's fees. And the said party making such fence, shall recover against the other owner or owners of such lands double the sum of such valuation or appraisement with costs, by action of

And if one makes the whole how to be paid.

Justices duty.

debt in the common course of the law. And the same rules and methods of proceeding shall be observed with respect to making new fences between lands that have heretofore been under improvement. And where the owner or owners of any lands shall not be in the actual possession or improvement of any such lands themselves, the owner or owners, tenant or occupant of the contiguous or adjoining lands, shall proceed in manner aforesaid, with regard to making such fences against the tenant or occupant of such adjoining lands, without regard to the owner or owners thereof.

The party making the whole to recover double the value.

And be it further Enacted by the Authority aforesaid, That when the owner or tenant of one part of lands adjoining, shall incline to improve his lands before the other, and in order thereto shall inclose and fence such lands, the adjoining lands lying unimproved, the owner or tenant of such lands shall not be liable to pay for half the division fence as aforesaid, until he or they shall actually improve; and when they shall so do, the party at whose cost such fence was made, may have it appraised as aforesaid, according to the value thereof, for the time then being, and such valuation shall be returned and recorded as aforesaid, and such party shall recover the value thereof as aforesaid; and when the owner or tenant of one part shall, after having improved as aforesaid, be disposed to lay down such lands, and not improve the same, such owner or tenant shall not take off or carry away his part of the division fence, but shall apply as aforesaid, for an appraisement thereof, and the other owner or tenant of the adjoining lands continuing his improvement, shall pay for the same according to such appraisement (unless the parties concerned shall otherwise agree) and in case of neglect or refusal so to do, the same may be recovered by action of debt as aforesaid, with incident charges. And when the parties concerned cannot agree in making a division of the fence and settling the part which each party is to make, either party may apply to a justice of peace as aforesaid, who is hereby authorized to issue a warrant to three indifferent men living near to the place where the said fence is to be made, who shall make an equal and just division thereof as aforesaid, and return the same to the said justice on oath, who shall record the same as aforesaid; and such division shall stand and remain good until the parties concerned do voluntarily agree on any other division.

How to proceed when one party does not improve;

and when one party shall lay down his lands.

Justice by warrant to make a division.

And be it further Enacted by the Authority aforesaid, That the fence viewers that shall be chosen by or in any of the towns, parishes or precincts in this province annually, pursuant to law, shall be, and hereby are invested with power and authority (after being sworn to the faithful discharge of their office) to view any of the aforesaid fences at the request of any party interested, and to adjudge and determine concerning the same, whether sufficient or not, and may and shall proceed therein as fence viewers, that are or shall be appointed by the select men, pursuant to an Act, entitled "An Act, for regulating Cattle, Corn-fields and Fences." And such of said fences as shall be returned sufficient by such viewers, shall be held good as in said act.

How division
fences to be re-
paired.

And when any such division fences shall need repair, it shall be done in the manner directed to in and by said act, a division being first made of each ones part, agreeable to the method herein before prescribed; and the said fence viewers shall be paid for the same as in said act, and may recover the same as directed to in said act, or by action of debt in the common course of the law, such fence viewers account of the single charge being first examined and allowed by a justice of the peace under his hand.

Pass'd 4th of
Geo. 1:

AN ACT TO ENABLE TOWNS, PARISHES, VILLAGES AND PROPRIETORS IN COMMON AND UNDIVIDED LANDS, TO SUE AND BE SUED.

For the better enabling towns, parishes, villages, trustees for schools, proprietors, and persons interested in common and undivided lands to maintain, recover and defend their grants, lands, interests & estates;

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same :

Towns, &c. to
sue by them-
selves or their
attornies

That it shall and may be lawful for all and every the said persons, towns, parishes, villages, precincts, trustees for schools and proprietors in common and undivided lands, grants and other estates, or interests whatsoever, to sue, commence and prosecute any suits or actions, in any courts proper to try the same, either by themselves, in their general or corporate name, or in the name of their agent or attorney, or their agents or attornies, to be appointed by such as have in them the major part of the interests: and in like manner to defend all such suits and actions as shall be commenced against them or any of them.

Also to defend
in like manner.

Towns, &c. to
certify their
choice of attor-
ney by the
town-clerk.

And further be it Enacted by the Authority aforesaid, That all and every town, parish, village and precinct, and proprietors in common and undivided lands, which shall have occasion to sue, or be sued, may at a meeting of the inhabitants of such town, parish, village or precinct, or proprietors aforesaid, orderly warned by the major vote of such as shall meet, choose an agent or agents, attorney or attornies to prosecute for, or defend for them as aforesaid, such choice being certified by the clerk of such town, parish, village, precinct or proprietors, or by such other person as they shall appoint.

How the writs
to be served.

And when any town, parish, village, precinct, or proprietors, aforesaid, shall be sued, it shall be sufficient notice to oblige them to appear, and answer, to leave a writ or summons with their clerk, or the other principal inhabitant or proprietor, briefly declaring the case, fourteen days before the sitting of the court, where the case is to be heard, as in other actions is provided.

AN ACT DIRECTING THE ADMISSION^P OF TOWN INHABITANTS.Pass'd 4th of
Geo. I.

For the better preventing of persons obtruding themselves on any particular town within this province, without orderly admission by the inhabitants of such town, or the select-men thereof in manner as hereafter is expressed : and for remedying the manifold inconveniences, and great charge heretofore occasioned thereby: to the intent also, that the select-men may the more easily come to the certain knowledge of persons, and their circumstances, that come to reside, and sojourn in such town:

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General-Assembly, and by the Authority of the same:

That every master of ship or other vessel, arriving in any port within this province, from any other country, land, island, colony or plantation, at the time of entering his ship or vessel with the naval-officer, for the time being; shall deliver to such officer a perfect list or certificate under his hand, of the christian and surnames of all passengers, as well servants as others brought in such ship or vessel, and their circumstances, so far as he knows, on pain of forfeiting the sum of five pounds, to the use of the poor of the town or place where such passengers shall be landed, or sent on shore, for every passenger that he shall omit to enter his or her name in such list or certificate, upon conviction thereof before his majesty's justices in the court of general sessions of the peace within this province. And every justice of peace is hereby impowered upon complaint made by the select-men of such town, or some of them, to convent such master before him; and to require and take sufficient security of him to appear and answer for his said offence, in manner as abovesaid, such complainants also giving bond to prosecute their complaint.

Masters of ships to give a list of all passengers to the naval officer under a penalty.

Justices power to fine such as neglect.

And further it is enacted, That when it shall happen any passenger so brought, to be impotent, lame, or otherwise infirm, or likely to be a charge to the place, if such person shall refuse to give security, or cannot procure sufficient surety or sureties to become bound for his saving the town from such charge; in such case the master of the ship or vessel in which such person came, shall be and hereby is obliged and required to carry or send him or her out of this province again, within the space of two months next after their arrival, or otherwise to give sufficient security as aforesaid, to indemnify and keep the town free from all charge for the relief and support of such impotent, lame or infirm person, upon demand thereof made by the select-men; unless such person was before an inhabitant of this province; or that such impotence, lameness or other infirmities befel or happened to him or her, during the passage: And in such case, if they be servants their masters shall provide for them, and others shall be relieved at the charge of the province.

Security to be given to indemnify the town, &c.

What persons shall be relieved at the charge of the province.

Sessions to en-
join the observ-
ance of this law.

And the justices of the general sessions of the peace, are hereby empowered to enjoin and order the performance of what is herein before required of such master accordingly.

Naval officers to
transmit lists of
passengers to the
town clerk.

And the naval officer is likewise required to inform and notify all masters of ships and other vessels coming to him to enter of the import of this act, and what is hereby enjoined and required of them, and not to admit an entry without such list or certificate of the names of the passengers (if any) or that the master give under his hand that he brought none. And such naval officer shall forthwith transmit all lists or certificates of passengers to the town clerk of such town, where the ship or vessel that bro't them shall lay, that the select-men may have knowledge of the same; and such town clerk is hereby required to lay all such lists or certificates returned to him, before the select-men at their next meeting.

Persons not or-
derly admitted
shall not enjoy
privilege of
election.

And be it further Enacted by the Authority aforesaid, That from and after the publication of this act, no person whatever coming to reside or dwell in any town in this province, other than freeholders and proprietors of land in such town, or those born, or that have served an apprenticeship there, and have not remov'd and become inhabitants elsewhere, shall be admitted to the privilege of elections in such towns (though otherwise qualified) unless such person shall first make known his desire to the select-men thereof, and obtain their approbation, or the approbation of the town, for his dwelling there.

Not to be re-
lieved by such
town unless, &c.

Nor shall any town be obliged to be at charge for the relief and support of any person residing in such town, in case he or she stand in need, that are not approved as aforesaid, unless such person or persons have continued their residence there, by the space of twelve months next before, and have not been warned in manner as the law directs, to depart and leave the town: any law, usage or custom to the contrary notwithstanding.

Persons return-
ing that have
been sent out of
any town to be
proceeded with
as vagabonds.

And if any person orderly warned to depart from any town whereof he or she is not an inhabitant, and being sent by warrant from a justice of peace unto the town whereto such person properly belongs, or to the place of his or her last abode, shall presume to return back, and obtrude him or herself upon the town so sent from, by residing there, every person so offending, shall be proceeded against as a vagabond.

Pass'd 4th of
Geo. 1.

AN ACT FOR SUPPRESSING ROBBERIES AND ASSAULTS.

To the intent his Majesty's leige people, may be in peace, and out of fear of being assaulted and robbed by ill-minded ruffians, as they are travelling the common roads, or high-ways, or of being insulted or indecently treated or abused as they are civilly walking, and recreating themselves in the fields, streets, or lanes in towns:

Be it Enacted by His Excellency the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That every person or persons that shall be convicted of assaulting and robbing, and taking away from the person of another travelling the common road, or high-way, any money, goods, cloathing, or other things whatsoever, shall be punished with burning in the forehead or hand, suffer six months imprisonment, and render treble damages to the party robbed.

Robbing on the high way.

And upon a second conviction of the like offence, shall be deemed a felon, and suffer the pains of death, as in cases of felony.

Second conviction.

And be it further Enacted by the Authority aforesaid, That whosoever shall be convicted of assaulting or offering any insolence or violence to any woman, or woman-kind in the fields, streets, or lanes in any town, or of despoiling them, damnifying, or defacing any of their attire or ornaments, or attempting the same, shall be punished by being publickly whipped, not exceeding ten stripes; or by being committed to the house of correction, to receive the discipline of the house, and continue there by the space of thirty days, and kept according to the rule and order of the house; and also find sureties for good behaviour before he be discharged. And any two justices of the peace, *quorum unus*, in the vacancy of the court of general sessions of the peace, are empowered to hear and determine this offence.

Assaulting of women.

And if the party so offending shall be afterwards convicted of committing the like offence a second time, he shall be further punished with burning in the hand, by sentence of the court of general sessions of the peace.

A Second conviction.

And it is further Enacted, That in either of the offences aforesaid, the oath of the party assaulted or robbed, being of reputation, shall be received as one sufficient evidence towards convicting the person charged.

Party's oath one evidence.

AN ACT FOR THE ENCOURAGING THE KILLING OF WOLFES.

Pass'd 4th of Geo. 1.

Be it Enacted by the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That whosoever shall at any time hereafter kill or destroy any grown wolfe in any town within this province, and bring the head thereof unto the constable of the town, in which such wolfe shall be killed, or to the constable of the town next adjacent unto the place of killing such wolfe, without the bounds of any township, shall have a receipt of the constable for the same; and the constable shall cut off both the ears from such head; and the party producing the constable's receipt unto the select-men of the said town, or some one of them, shall be allowed and paid out of the town stock the sum of twenty shillings for every head, as afore-

Twenty shillings for a grown wolfe, ten shillings for a whelp.

said, of a grown wolfe, by him killed, or destroyed, and ten shillings for every wolfe's whelp: and that the same be raised by the select-men in each respective town, with other town charge, and be duly paid and satisfied accordingly.

Fifty shillings
out of the treasury.

And as a further encouragement, shall also be paid out of the treasury of the province, fifty shillings, for every such grown wolfe by him so killed.

Pass'd 8th of
Geo. 1.

AN ACT TO PROHIBIT TRADE AND COMMERCE WITH THE EASTERN INDIANS.

Preamble.

Whereas the Eastern Indians have broke and violated all treaties of peace and friendship made with them, and insulted the eastern settlements:

Be it therefore Enacted by his honour the lieutenant Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

No sort of trade
with the Indians.

That whoever shall after the twentieth day of this instant October, directly or indirectly have any trade or commerce by way of gift, barter or exchange, or any other way whatsoever, with any of the aforesaid eastern indians; or shall supply them with any provision, cloathing, guns, powder, shot, bullets, or any other goods, wares or merchandize whatsoever, shall forfeit and pay the sum of five hundred pounds, and suffer twelve months imprisonment, without bail or mainprize, upon the first conviction: the said forfeiture to be recovered by bill, plaint or information in any of his Majesty's courts of record; the one half of said forfeiture to be applied to and for the use and support of this his Majesty's government, the other half to him or them that shall inform and sue for the same.

Penalty for trad-
ing with the
Indians.

The penalty
how to be ap-
plied.

The punishment
upon a second
conviction.

And be it further Enacted, That if any person convicted of trading with any of the aforesaid Indians, shall be so hardy as to carry on any trade or commerce with these Indians in manner, as aforesaid, shall upon a second conviction be deemed a felon, and suffer the pains of death.

Pass'd 13th of
Wm. 3.

AN ACT, FOR ASSISTING THE OFFICERS THEREIN MENTION'D, IN THE EXECUTION OF THEIR RESPECTIVE OFFICES.

Forasmuch as sheriffs, under-sheriffs, and constables, have often times need of aid and assistance in the execution of their offices:

Be it therefore Enacted by the Lieutenant Governor, Council, and Representatives, Convened in General Assembly and by the Authority of the same:

Sheriff to com-
mand assistance.

That when and so often as any sheriff, under-sheriff, or constable shall be in the execution of his office, for the preservation of the

peace, or for apprehending or securing any person or persons for violating the same; or for any other criminal matter or cause, it shall and may be lawful to and for such sheriff, under-sheriff, or constable to require suitable aid and assistance therein; and if any person or persons being required by any sheriff, under-sheriff or constable in his majesty's name to aid and assist him in the execution of his office as aforesaid, shall neglect or refuse so to do, and be thereof convicted before one or more of his majesty's justices of the peace; such offender or offenders shall be fined, to the use of the poor of the town where the offence shall be committed, not exceeding twenty shillings, at the discretion of such justice or justices, according to the circumstances aggravating or lessening such offence: and if such offender or offenders be unable or shall not forthwith pay the said fine, such justice or justices may punish him or them by imprisonment, not exceeding forty-four hours, or by setting in the stocks, not exceeding four hours.

Fine for disobedience.

And if any person not being really and *bona fide* a sheriff under sheriff, deputy or constable, shall presume to abuse his majesty's name and authority, in pretending him or themselves to be any or either of the said officers, and take upon him or themselves to act as such, or to require any other person or persons to aid or assist him or them in any matter or thing belonging to the duty of a sheriff, under-sheriff or constable, every person or persons so offending, and being thereof convicted, shall forfeit and pay a fine not exceeding fifty pounds, according to the nature and circumstances aggravating his offence, at the discretion of the court before whom the conviction shall be: one moiety of the said fine or forfeiture to be made unto his majesty, towards the support of the government, in this his majesty's province; and the other moiety to him or them that shall inform and prosecute for the same.

Penalty on any person that shall act as sheriff or constable, having no power.

AN ACT CONCERNING MARRIAGES, BIRTHS AND BURIALS.

Pass'd 13th of Ann.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That it shall and may be lawful for any settled minister residing within this province, to join persons in marriage in their respective parishes, provided they be published three publick meeting days, and have a certificate thereof under the hand of the town-clerk, or have a sufficient license from the governor, for the time being, according to former custom: and whosoever is joined so in marriage, shall pay to the minister so marrying them five shillings; and shall within one week take care to have his marriage recorded, by the person authorized to record births and burials, and to pay for the same six pence; but if they neglect it above a week, then to pay twelve pence for every couple so married, per week, until recorded.

Ministers to join persons in marriage.

Fee for marriage.

Town-clerk to
record births
and burials.

And be it further Enacted by the Authority aforesaid, That the clerk in every town within this province, shall record births and burial; and all persons concerned are to take care to give notice thereof to the said clerk, within one month, and pay for every birth and burial six pence, if within one month, or else twelve pence every month after, until done: and the clerk to return every quarter of a year, a list of all marriages, births and burials, unto the register appointed for the province, upon penalty of forfeiting five shillings for every time such clerk shall neglect to make such return, to be distributed to the use of the poor of the town where such neglect is made: and the clerk of every town is to pay to such register two pence for every name so registered. And whosoever shall marry any person without such license or publication, shall forfeit the sum of fifty pounds, one half part thereof to her majesty for the use of the government, and the other half to the informer, that shall sue for the same in any of her majesty's courts of record within this province.

Penalty for mar-
rying without
license, &c.

Pass'd the 4th
Geo. 1.

AN ACT FOR THE PAYMENT OF CURE OF SOLDIERS THAT ARE
WOUNDED.

For the better encouragement of soldiers to adventure their
Persons against any enemy:

Be it Enacted and ordained by his Excellency the Governor, Council and Representatives, Convened in General Assembly, and by the Authority of the same: and it is hereby Enacted:

That in case any person within this province being actually in Arms by the command of his officer, or as a volunteer, shall be wounded by the French or Indian enemy, the charge of the cure shall be paid out of the publick treasury.

Pass'd 13th of
Ann.

AN ACT TO PREVENT FRAUD IN CORD WOOD, EXPOSED TO SALE.

Be it Enacted by his Excellency the Governor, Council, and Representatives, convened in General Assembly, and by the Authority of the same:

That all cord wood exposed to sale shall be four feet long, accounting to half the cars, and the cord being well and close laid together, shall measure eight feet in length, and four feet in heighth.

And in every town and district within this province, where wood is usually sold by the cord, the select-men shall annually nominate and appoint some meet persons to be wood corders, who shall be

sworn in like manner, as other town officers, to the faithful discharge of their office, and shall diligently attend that service and demand and receive three pence, and no more per cord, for all wood that shall be corded by them: to be paid by the seller.

AN ACT FOR REGULATING THE FISHERY.

Pass'd the 4th
Geo. 1.

Many complaints having been made by the owners of fishing vessels against the men employed by them in that service:

For prevention thereof;

Be it Enacted by His Excellency the Governor, Council, and Representatives, convened in General Assembly, and it is hereby Enacted and Ordained by the Authority of the same:

That whatsoever person after the publication hereof shall ship himself on any fishing voyage, with the owner of any vessel, shall be obedient to the orders and directions of the said owner, during the term agreed for, on the forfeiture of forty shillings, for every such refusal or neglect, besides the damage the owner shall prove before a justice of the peace, he hath sustained thereby: the fine to be one half to his majesty, his heirs or successors, the other half to the use of the poor of the town or parish where the vessel belongs.

Men that are shipped to be obedient and orderly.

Penalty.

And be it further Enacted by the Authority aforesaid, That the shipping or agreement of any person shall be by one witness thereto, or by a memorandum in a book or paper, whereto he hath set his hand.

shipping.

And be it further Enacted by the Authority aforesaid, That any person so shipped, or agreed with, during any time, shall not make any new agreement, with any other owner or master of any vessel until the first time which he agreed for be expired; on the forfeiture of five pounds, one half to the poor of the town or parish where the vessel belongs, the other half to him, her or them, that shall inform and sue for the same. Which tryal shall be before three justices of the peace *unus Quorum*; where a jury may be had, if required.

A person already shipped not to make any new agreement till his former voyage is up.

And be it further Enacted by the Authority aforesaid, That if the owner of any fishing vessel, shall not supply and get every thing fit and convenient for the carrying on the voyage, on which he hath shipped his crew or company, then the master of such vessel may make his complaint thereof to one of his majesty's justices of peace; who shall order a survey on the vessel and equipment, by two indifferent masters, or other persons qualified for that service; and if they return that the vessel is not sufficiently provided for the voyage which the owner intended and ordered; the owner shall fit and provide according to the return of the aforesaid surveyors; and also pay unto the men so detained on

Every owner to make necessary provision for the voyage.

their voyage, or imploy what shall be adjudged by the justice or justices, he or they have sustained for want of such provision.

Owners not to ship a man upon a new voyage, till his former voyage is over.

Penalty.

And be it further Enacted by the Authority aforesaid, That whatsoever owner of any fishing vessel, or other person, shall make any agreement with any person shipped or agreed with by any owner, on a fishing voyage before the time of the first agreement be accomplished with the person that had engaged him; shall pay a fine of forty shillings for each person so shipped or agreed with, to be disposed of as in this act is appointed, on the mens forfeiture of forty shillings.

Pass'd 13th of Ann.

AN ACT AGAINST SHIPPING HORSES WITHOUT ENTRY.

Be it Enacted by his Excellency the Governor, Council, and Representatives, Convened in General Assembly, and by the Authority of the same :

Horses to be entered before shipped.

That from and after the first day of June next, no master or commander of any ship or vessel shall receive on board such ship or vessel within this province of New-Hampshire, any horse, gelding or mare, but such as shall be entered into a book, with the colour, particular marks and age of such horse, gelding or mare, as near as may be known, and the person from whom such was last bought, with his christian name, sir name and place of dwelling; as also the present owners or shippers name, and the name of the ship or vessel, and of the master or commander thereof, whereon they are to be laden, and whether bound; and to deliver a certificate under his hand, of such entry by him made, unto the shipper, directed unto the master of such ship or vessel by name.

Fee for entering horses.

For which entry and certificate the person appointed thereto shall demand and receive six pence a head for each horse, gelding or mare, and no more.

Penalty for not entering horses before shipping.

And be it further Enacted by the Authority aforesaid, That if any person shall presume to ship off any horse or horse kind, not being first entered as aforesaid; or if any master or commander of any ship or vessel shall receive, take or suffer to be received or taken any horse or horse kind on board the ship or vessel then under his command without such certificate, as aforesaid, every shipper or master so offending shall forfeit and pay the sum of five pounds, one moiety thereof to be unto the use of the poor of such town where the offence is committed, and the other moiety to him or them that shall inform and sue for the same by action, bill, plaint or information, in any of her majesty's courts within this province: any law, usage or custom to the contrary notwithstanding.

AN ACT TO REGULATE AND RESTRAIN PAPER BILLS OF CREDIT IN HIS MAJESTY'S COLONIES OR PLANTATIONS OF RHODE-ISLAND, AND PROVIDENCE PLANTATIONS, CONNECTICUT, THE MASSACHUSETTS-BAY, AND NEW-HAMPSHIRE, IN AMERICA ; AND TO PREVENT THE SAME BEING LEGAL TENDERS IN PAYMENTS OF MONEY.

Whereas the Act of Parliament made in the sixth year of her late Majesty Queen Anne, intituled, An Act for ascertaining the rate of foreign coins in her Majesty's Plantations in America, hath been intirely frustrated in his Majesty's said colonies of Rhode-Island and Providence Plantations, Connecticut, the Massachusetts-Bay, and New-Hampshire, in America, by their creating and issuing, from time to time, great quantities of paper Bills of credit, by virtue of acts of assembly, orders, resolutions or votes, made or passed by their respective assemblies ; and making legal the tender of such bills of credit in payment for debts, dues and demands : which bills of credit have, for many years past, been depreciating in their value ; by means whereof all debts of late years have been paid and satisfied with a much less value than was contracted for ; which hath been a great discouragement and prejudice to the trade and commerce of his majesty's subjects, by occasioning confusion in dealings, and lessening of credit in those parts :

Therefore, for the more effectal preventing and remedying of the said inconveniencies,

May it please your most excellent Majesty, That it may be enacted ; and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That from and after the twenty-ninth day of September, one thousand, seven hundred and fifty-one, it shall not be lawful for the Governor, Council, or Assembly, for the time being, or any of them, or for the Lieutenant-Governor, or person presiding or acting as Governor or Commander in chief, for the time being, within all or any of the aforesaid colonies or plantations of Rhode-Island, and Providence plantations, Connecticut, the Massachusetts-Bay, and New-Hampshire, to make or pass, or give his or their assent to the making or passing of any act, order, resolution, or vote, within any of the said colonies or plantations, whereby any paper-bills, or bills of credit, of any kind or denomination whatsoever, shall be created or issued under any pretence whatsoever ; or whereby the time limited, or the provision made, for the calling in, sinking or discharging of such paper-bills, or bills of credit, as are already subsisting, and passing in payment, within any of the said colonies or plantations, shall be protracted or postponed ; or whereby any of them shall be depreciated in value ; or whereby the same shall be ordered or allowed to be re-issued, or to obtain a new and further currency : And that all such acts, orders, resolutions or votes, which shall or may be passed or made, after the said twenty-ninth day of September one thousand seven hundred and fifty-one, within all or any of the said

After 29th of September 1751, no Governor, &c. within the colonies, Rhode Island, Connecticut, Massachusetts, or New Hampshire, to assent to the passing any paper-bills of credit, of any denomination

or for postponing the time for sinking such bills as were before extant,

or whereby they shall be depreciated in value.

colonies or plantations, shall be, and are hereby declared to be null and void, and of no force or effect whatsoever.

All bills before extant to be punctually discharged and sunk, according to the tenor of the acts, whereby they were issued.

And be it further Enacted by the Authority aforesaid, That all such paper-bills, or bills of credit, as are now subsisting, and passing in payments, within any of the said colonies or plantations of Rhode-Island, and Providence plantations, Connecticut, Massachusetts-Bay, and New-Hampshire, shall be duly and punctually called in, sunk, and discharged, according to the tenor of, and within the periods limited by the respective acts, orders, votes, or resolutions, for creating and issuing, or continuing the same respectively, unless where the same have been altered by any subsequent act or acts of assembly: and in that case, that the same be discharged according to the tenor mentioned in the said act or acts of assembly; and that no such paper-bills, or bills of credit, shall, from and after such periods so limited, as aforesaid, be any longer current in all or any of the said colonies or plantations respectively.

Liberty granted to issue bills for the current service of the year,

Provided nevertheless, That nothing in this act contained shall extend, or be construed to extend, to restrain any Governor or Governors, Council or assembly, within any of the said colonies or plantations, from making or passing any act or acts of assembly, in any of the said colonies or plantations, for the creating and issuing of such paper bills, or bills of Credit, in lieu of, and for securing such reasonable sum and sums of money, as shall be requisite for the current service of the year; so as by such act or acts of assembly, whereby such paper-bills, or bills of credit, shall be created or issued, sufficient provision be made to secure the calling in, discharging and sinking of the same, within a short reasonable time, not exceeding the space of two years, to be computed from the dates of the respective acts, whereby such paper-bills, or bills of credit were created and issued; any thing herein before contained to the contrary thereof in any wise notwithstanding.

and for the extraordinary emergencies of government in time of war.

Provided also, That nothing herein contained shall extend, or be construed to extend, to restrain any Governor or Governors, Council or Assembly, within any of the said colonies or plantations from making or passing any act or acts of assembly, in any of the said colonies or plantations, for creating and issuing such paper-bills, or bills of credit, in lieu of, and for securing such reasonable sum or sums of money as shall, at any time hereafter, be judged necessary or expedient upon sudden and extraordinary emergencies of Government, in case of war, or invasion, so as, in every such act or acts of assembly for the emission of paper-bills, or bills of credit, so issued as aforesaid, due care be taken to ascertain the real value of all such principal sum or sums, for which the same shall be so made, created and issued, as aforesaid, and also the interest to be paid thereon; and so as care be likewise taken, in the said act or acts, to establish and provide an ample and sufficient fund for the calling in, discharging and sinking, within as short and reasonable time as may be, not exceeding five years at the farthest, all the said bills, by actual payment of all and every the sum and sums of money for which the same shall be so made, created and issued, as aforesaid, with the interest due thereon.

And whereas there are now subsisting, and passing in payment, within the said colonies and plantations, divers kinds of paper-bills, or bills of credit, of various denominations, which have been heretofore created and issued within the said colonies and plantations, or some of them, on loans and otherwise, whereby private persons and their estates, stand liable to, and bound for the discharge of the sums by them borrowed and received on such loans; without the payment of which sums (in case any difficulty or obstruction should arise in the payment thereof) such paper-bills, or bills of credit, so issued on such loans, cannot be called in, discharged and sunk, according to the tenor of the respective acts, orders, votes, or resolutions, by virtue whereof the same have been so respectively issued:

For the providing a remedy for such Inconveniences,

Be it further Enacted by the Authority aforesaid, That all such paper-bills, or bills of credit, of what kind or denomination soever, which have at any time heretofore been created and issued on such loans, within any of the said colonies or plantations, be duly called in, and discharged and sunk, according to the tenor of the respective acts, orders, votes or resolutions, for creating and issuing, or continuing the same respectively, in like manner as all other paper-bills, or bills of credit, already subsisting within the said colonies or plantations, are herein before required to be called in, discharged and sunk.

Bills issued on loan, to be sunk according to the tenor of the acts by which they were emitted.

And be it further Enacted by the Authority aforesaid, That all persons who have borrowed and taken up any sum or sums of money on loans, for the discharge whereof they, and their respective estates stand bound, shall be required and compelled, by all due and legal means, to satisfy and discharge the sums by them borrowed, according to the terms of such loans respectively, and the true intent and meaning thereof, except as is herein before excepted; and in case any deficiency or loss shall happen by failure of the security so taken on such loans respectively, that the same and every part thereof, shall be supplied and made good by an adequate tax or imposition, to be equally and rateably assessed, levied and raised, within the said colonies or plantations respectively where such loss or deficiency shall so happen.

Persons who had taken up bills upon loan to be compelled to discharge the same, any loss to be made good by tax.

And be it further Enacted by the Authority aforesaid, That from and after the twenty-ninth day of September, one thousand seven hundred and fifty-one, no paper currency, or bills of credit of any kind or denomination, which may be made, created or issued, in any of the said colonies or plantations, pursuant to the provision herein before made in this act, shall be a legal tender in payment of any private bargains, contracts, debts, dues or demands whatsoever, within the said colonies or plantations, or any of them.

No paper bills made after the 29th September, 1751, to be a legal tender.

Provided, That nothing herein contained shall extend, or be construed to extend, to make any of the bills now subsisting in the said colonies a legal tender.

None before extant made so by this act.

And be it further Enacted by the Authority aforesaid, That if any Governor, or Commander in chief, for the time being, in all or any of his majesty's said colonies or plantations, whether commissioned by his majesty, or elected by the people, shall, from

Bills made &c. contrary to this act to be void.

Penalty on the
Governor for
assenting.

and after the twenty ninth day of September, one thousand seven hundred and fifty one, give his assent to any act of assembly, order, resolution or vote, for the emission or issuing of any paper-bills, or bills of credit, of any kind or denomination whatsoever ; or for prolonging the time limited for calling in and sinking any such paper bills, or bills of credit, as are now subsisting, and passing in payment ; or for re-issuing or depreciating the same, contrary to the true intent and meaning of this act ; such act, order, resolution, or vote, shall be, *ipso facto*, null and void, and such Governor, or Commander in chief, shall be immediately dismissed from his government, and for ever after rendered incapable of any public office or place.

Pass'd 5th of
Geo. 3. June 27.

AN ACT FOR ASCERTAINING THE VALUE OF COINED SILVER AND GOLD, AND ENGLISH HALF-PENCE AND FARTHING, AND THE RATES AT WHICH THEY SHALL PASS FOR THE FUTURE IN THIS PROVINCE.

Preamble.

Whereas the bills of credit of this province, called new tenor, which have passed in private payments in lieu of money, and in which the judgments of the several courts of justice have been entered, are now (nearly) all sunk, and there being no law of this province which ascertains and fixes the value or rate at which the silver and gold coin that is current and passing here shall be taken, and various estimations in that case being very inconvenient :

Therefore

Be it Enacted by the Governor, Council and Assembly :

The value of
gold and Silver,
or the rate at
which they shall
pass in this
Province.

That one guinea shall be valued at twenty-eight shillings, an English crown at six shillings and eight pence, an half-crown at three shillings and four pence, an English shilling at one shilling and four pence, an English six pence at eight Pence, all Spanish mill'd pieces, of eight, or dollors of full weight, at six shillings a piece, and the half and quarter and other less pieces of the same coin in the same proportion, a double johannes or gold coin of Portugal of the value of three pounds, twelve shillings sterling at four pound sixteen shillings, a single johannes of the value of thirty-six shilling sterling at forty-eight shillings, a moidore at thirty-six shillings, a pistole of full weight at twenty two shillings, three English farthings for one penny, and English half-pence in proportion. And any debt, bargain or contract, that shall be made in this province, from and after the first day of August, which will be in this present year one thousand seven hundred and sixty-five for the sum of twenty-eight shillings, shall be paid and discharged by one guinea, and every debt and contract of and for six shillings and eight pence, shall be paid and discharged by one such crown, and so of all other sums in the same proportion, which shall be discharged by the several species of coins aforesaid

All contracts
&c. to be under-
stood for gold or
silver at that
value from the
First of August.

at the respective rates above-declared, for any debt, bargain, contract, or service whatsoever: and it is hereby declared to be unlawful to utter, pass or take the same at any greater or higher rates.

And be it further Enacted, That if any person within this province after the first day of August aforesaid, for the discharge of any debt, contract or bargain, made after that time, shall account, receive, take or pay any of the several species of coins before-mentioned at any greater or higher rate than the respective sums aforesaid, every person so offending shall forfeit and pay the sum of fifty pounds for every such offence, one moiety thereof to his Majesty, for the use of the government, and the other moiety to such person or persons as shall inform and sue for the same, to be recovered by presentment of the grand jury, in which case the said moiety shall be equally divided among them, or by bill, plaint or information in any of his majesty's courts of record in this province, with full costs.

Penalty for passing gold or silver at any other rate.

And be it further Enacted, That all debts, bargains, contracts and dues whatsoever which shall be due, agreed, contracted and made from and after the said first day of August aforesaid in this province, wherein money is to be paid, or is made the measure and value of the things under consideration, shall be understood, and are hereby declared to be at the estimate and valuation aforesaid. And all accounts shall be kept and regulated accordingly, or they shall not be allowed or admitted to be produced in evidence for the recovery of any sum demanded in any of his majesty's courts of record within this province; and all judgments of the said courts respectively shall be entered for lawful money of this province, which shall be computed and discharged by the several species of coins aforesaid, or any of them at the respective rates at which they are herein fixed and valued as above declared.

All contracts to be understood for this money;

all accounts to be kept accordingly.

And be it further Enacted, That in paying and satisfying debts, contracts and bargains made before the aforesaid first day of August, which may be paid by the aforesaid money, at the valuation by this act fixed, but were made and understood by the parties concerned to be in bills of credit, that impartial justice may be done between debtor and creditor, regard shall be had to the intention of the parties contracting, as far as can be collected or appears; and the bills to be valued at their current value in silver at the time the debt, bargain, contract or agreement was made, and may be discharged by an equivalent in any of the said several species of coins at the rates aforesaid; and in entering judgment in such cases in the several courts of justice in this province, they shall observe and comply with this rule of giving an equivalent.

How former debts are to be estimated.

Pass'd 5th of Geo. 3. June 27. AN ACT TO RESTRAIN AND PREVENT THE TAKING EXCESSIVE USURY.

Preamble.

Whereas the taking excessive interest for the loan of money is a discouragement to trade, labour and industry, when the usurer makes as much profit by his money only, as the fair dealer, the honest husbandman, and ingenious artificer can by their money, time and labour, and is often the occasion of great oppression by taking the advantage of the necessitous and exigencies of such persons :

Therefore,

Be it Enacted by the Governor, Council and Assembly :

No interest to be allowed above six per cent.

That no person or persons whomsoever from and after the first day of August in the present year one thousand seven hundred and sixty five, upon any contract which shall be made, shall take either directly or indirectly for the loan of any money, wares, merchandize, or any other personal estate whatsoever above the value of six pounds for the use and forbearance of one hundred pounds for one year ; and so after that rate for a greater or lesser sum, or for a longer or shorter time : And all bonds, contracts, mortgages and assurances, whatsoever, made after the time aforesaid, for the payment of any principal, or money lent or covenanted to be lent, upon or for usury, whereupon or whereby there shall be reserved or taken above the rate of six pounds in the hundred as aforesaid, shall be utterly void ; and all and every person and persons whomsoever who shall after the time aforesaid upon any contract take, accept and receive by way or means of any corrupt bargain, loan, exchange, or by covin or deceitful conveyance, or by any other way or means whatsoever for the forbearing or giving day of payment for one whole year, of and for their money or other personal estate whatsoever above the sum of six pounds for the forbearance of one hundred pounds for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time, shall forfeit and loose for every such offence, the full value of the goods and monies or other things so lent, exchanged, bargained, sold or agreed ; one moiety thereof to his majesty for the use of this government, and the other moiety to him or them who shall inform and sue for the same, with cost.

Penalty.

Exception.

Provided, nothing in this act shall extend to the letting of cattle or other usages of like nature in practice among farmers, or maritime contracts among merchants as bottomry or course of exchange, as hath been heretofore used.

And whereas persons who may be disposed to take exorbitant interest, may and often do transact the matter in so private a manner that it is difficult to prove the truth of the fact :

Therefore,

A debtors oath admitted for evidence in case.

Be it Enacted, That when any person or persons shall after the said first day of August, be sued on any bond, contract, mortgage or any assurance whatsoever, given or made after that time for

the payment of any money, goods or personal estate whatsoever, wherein or whereby any sum is given, secured or taken for the forbearing or giving day of payment for a longer or shorter time; then in such case (the creditor being alive) if the debtor or debtors shall come into court where the cause is to be tried, and shall offer to make oath, and if required by the court, actually swear to the same that there is taken, reserved or secured by such bond, contract, mortgage or assurance above the rate of six pounds in the hundred for the forbearance of the same, whether it be money or other things for one year, and so after that rate for any greater or lesser sum, or for a longer or shorter time; or that the creditor or creditors have received more than after the rate of six pounds in the hundred for the forbearance or loan of any sum of money or other personal estate or thing sued for, *per annum*, such bond, contract, mortgage or assurance shall be utterly void, and the debtor fully and absolutely discharged forever of and from such demand, unless the creditor will *bona-fide* swear that he, she or they have not directly nor indirectly, wittingly taken or received more than after the rate of six per cent per annum for forbearance or giving day of payment, and that by such bond, contract, mortgage or assurance there is not reserved, secured or taken more than after the rate of six per cent per annum for forbearance or giving day of payment for the money, goods or things sued for or demanded.

All securities for money now outstanding to be reduced to six per cent.

And it is hereby ordered and directed, That the proviso and exception herein before declared, shall extend and be construed and deemed to extend to this case also.

And it is hereby further Enacted, That all securities and assurances for money or other personal estate now subsisting, in which notwithstanding a greater or higher interest may be contracted for, yet shall be reduced to six pounds per cent per annum interest for money or other personal estate within seven months from the passing this act: and all such securities or assurances as shall not be changed, but remain as originally taken and shall be sued after that time, the court where the judgment shall be given, shall allow no more than six pounds per cent, on the sum expressed in the security of the same kind of money expressed and agreed for therein, after the expiration of the aforesaid seven months.

[Publish'd the 27th of June, 1765.]

ACTS AND LAWS OF THE PROVINCE OF NEW-HAMPSHIRE, PAST THE 15TH OF JUNE 1765.

Pass'd 5th of
George 3.

AN ACT FOR SETTING OFF DEBTS AND MUTUAL DEMANDS IN SUITS AT LAW, BEING THE 13TH SECTION OF THE STAT. OF THE SECOND OF GEO. II. CHAP. 22, AND THE FIFTH SECTION OF THE STATUTE OF THE 8TH OF GEORGE II. CHAPTER 24.

Preamble.

Whereas the setting off of debts and damages in actions, where the defendant or defendants have a just demand against the plaintiff or plaintiffs, has been found by experience of great service and ease to debtors, and of advantage to prevent multiplying law-suits :

Therefore,

Be it Enacted by the Governor, Council, and Assembly :

Debts & demands may be off set without an action to be bro't by the debt, upon notice &c.

That where there are mutual debts between the plaintiff and defendant, or if either party sue or be sued as executor or administrator, where there are mutual debts between the testator or intestate, and either party, one debt may be set against the other, and such matter may be given in evidence, upon the general issue, or pleaded in bar as the nature of the cause shall require, so as at the time of his pleading the general issue, where any such debt of the Plaintiff, his testator or intestate, is intended to be insisted on in evidence ; notice shall be given of the particular sum, or debt so intended to be insisted on, and upon what account it became due, or otherwise such matter shall not be allow'd in evidence upon such general issue. And mutual debts may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, notwithstanding that such debts are deemed in Law to be of a different nature. Unless in cases where either of the said debts shall accrue by reason of a penalty contained in any bond or specialty.

Mutual debts may be set against each other by being pleaded in bar or given in evidence.

Cases of penalties &c. excepted.

And in all cases where either the debt for which the action hath been or shall be brought, or the debt intended to be set against the same, hath accrued, or shall accrue by reason of any such penalty, the debt intended to be set off, shall be pleaded in bar, in which plea shall be shewn, how much is truly and justly due on either side : and in case the plaintiff shall recover in any such action or suit, judgment shall be enter'd for no more than shall appear to be truly and justly due to the plaintiff, after one debt being set against the other as aforesaid.

AN ACT TO PREVENT THE ABATEMENT OF WRITS AND LOSS OF ACTIONS PENDING, BY THE DEATH OF ANY OF THE PARTIES CONCERNED IN THEM BEFORE FINAL JUDGMENT, BEING THE SIXTH AND SEVENTH PARAGRAPHS OF THE STATUTE OF THE 8TH, AND 9TH, OF WILLIAM 3, CHAP. II.

Pass'd 5th of
George 3. June
15th.

Whereas it has often happen'd, that while suits are depending before the courts or after actions are commenced, before judgment, by the death of some of the parties, the suit is abated, which occasions great expence to the suitors :

Preamble.

For Prevention whereof,

Be it Enacted by the Governor, Council, and Assembly :

That in all actions to be commenced in any court of record, from and after the twentieth day of June one thousand seven hundred and sixty five, if any plaintiff happen to die, after the entry of such action, or after an interlocutory judgment, or an appeal to a superior court be enter'd, and before final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff : and if the defendant die after such entry, or interlocutory judgment or appeal entered, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant : And the plaintiff, or if he be dead after such entry, interlocutory judgment or appeal, his executors or administrators shall and may have a scire-facias against the defendant, if living after such entry, interlocutory judgment or appeal, or if he died after, then against his executors or administrators ; to shew cause why damages in such actions should not be assessed and recovered, by him or them : and if such defendant, his executors or administrators, shall appear at the return of such writ, and shall not shew or alledge any matter, sufficient to arrest the final judgment, or being returned warned, or upon the scire facias it be returned, that the defendant, his executors or administrators, had nothing whereby to be summoned, or could not be found in the province, shall make default, that thereupon a writ of enquiry of damages shall be awarded, which being executed and returned, judgment final shall be given for the said plaintiff, his executors or administrators, prosecuting such writ of scire facias, against such defendant, his executors or administrators respectively.

In actions to be commenced after the 20th of June 1765, the death of either party shall not abate the writ if the cause of action survives.

Directions how to proceed after the death of either party.

And be it further Enacted by the Authority aforesaid, That if there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such action shall survive, to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall not be thereby abated ; but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

If two or more are p'ts or defendants.

Pass'd 6th of
George 3. 10th
of Jan.

AN ACT TO ENABLE SELECT-MEN TO CHANGE HIGH-WAYS, AND TO APPLY LAND LEFT FOR HIGH-WAYS WHERE IT IS NOT SUITABLE, AND TO PURCHASE LAND SUITABLE FOR THAT PURPOSE WHERE IT IS WANTING.

Preamble.

Whereas the select-men of the several towns are by law enabled to lay out high-ways for the use of the towns and particular persons, but have not power to change them when laid out, nor to alter the land left for high-ways, in the laying out of townships: and whereas the changing lands left for high-ways, and high-ways themselves for other lands more convenient, may be often done to advantage, not only to particular persons, but whole communities, as after settlement, the land may be better known:

Therefore,

Be it Enacted by the Governor, Council, and Assembly:

Power granted
to the select men
to change high
ways.

That the select-men of the towns and parishes having town powers, by the voice of the major part of the voters present, at any legal meeting for this purpose, be and hereby are impowered to exchange any lands left for high-ways; or any high-ways or any part of them where a way is not necessary to be continued, for other lands more suitable therefor, making due satisfaction in all the foregoing cases, out of the town stock or otherways, for the same, to the owners or proprietors of the lands through which said high-ways shall run.

The parties
enquire to be
satisfied.

And be it further Enacted by the Authority aforesaid, That if the owners or proprietors of the lands through which said high-ways shall run, be not satisfied with what the select-men shall offer by way of recompence for their damage, that they or any of them shall have liberty of making application to the court of general sessions of the peace, who are hereby impowered to make enquiry by a jury or committee, which said court may appoint, who may view the premises at the request of either party; and on their verdict or report, the said court of sessions shall make a final judgment, both as to the satisfaction and cost: and the said select-men, or the major part of them, if the court so order, shall be subject to an execution therefor; and they are hereby impowered to raise money for this end, and pay the same out of the publick stock: and the select-men may, when the land cannot be exchanged by agreement with the owners of the land to be made the new way, sell the land for the most advantage, and apply the money to the purchase of the land where the new way is to be laid; and if not sufficient, the residue to be raised as aforesaid.

Select men
made liable to
pay, &c. and to
have power to
raise money.

AN ACT FOR RECORDING ALL POWERS OF ATTORNEY, OR INSTRUMENTS, BY VIRTUE OF WHICH, ANY DEEDS OF CONVEYANCE OF HOUSES OR LANDS SHALL BE MADE, OR ALREADY MADE, BUT NOT SO RECORDED; AND FOR PRESERVING AFFIDAVITS, TAKEN IN *PERPETUAM REI MEMORIAM*.

Pass'd 6th of
George 3. Jan.
23.

Whereas it frequently happens, that by a reason of grantors living abroad beyond sea, out of the province, or some other necessary cause or conveniency, deeds of conveyance of houses, lands, or other estates of inheritance are made, by virtue of powers of attorney, or authority granted to some other person, by the owner or grantor of the estate; and if by accident the original instrument giving such authority, should be lost, the deed conveying the estate would be void or call'd in question, and the grantee, or such as hold under him injur'd disputes increased, and titles to such estates rendered dubious and uncertain for want of a proper authentic record of such powers:

Preamble.

For prevention whereof,

Be it Enacted by the Governor, Council, and Assembly:

That when any deed of conveyance of any house, land or real estate whatsoever, shall be made by virtue of any power of attorney or instrument, authorizing any person to execute a deed or deeds of conveyance of such estate, being proved as the deed thereby made, and therewith recorded, a copy of such power shall be deemed, adjudged and allowed to be as good evidence as the copy of such deed, and shall be admitted accordingly in any court in this province.

A copy of a
power by which
conveyance is
made, to be
admitted as evi-
dence.

And any testimony or affidavit taken in *perpetuam rei memoriam* of any matters whatever, being entered and recorded in the registry of deeds, a copy of such record, the original being lost, may be given in evidence in any court, as occasion may require, in such cases where the original might lawfully be admitted.

Affidavits in per-
petuam may be
recorded, &c.

AN ACT TO INVEST THE OVERSEERS OF THE POOR WITH POWER MORE EFFECTUALLY TO EMPLOY THEM, AND TO PROVIDE FOR BRINGING UP THEIR CHILDREN MORE USEFULLY.

Pass'd 6th of
George 3. Jan.
17th.

Whereas there are many poor people who spend their time idly, and neglect to provide for themselves and those who depend upon them for subsistence, by any lawful means, and neglect the care and education of their children, but suffer them to spend their time in play, idleness and a total neglect of those means by which they might be made useful members of society, notwithstanding the advantages for their improvement; by which neglect the number of beggars, as well as thieves and strollers, are increased, and many disorders committed;

Preamble.

For remedy whereof,

Be it Enacted by the Governor, Council and Assembly:

Overseers of the poor, &c. authorized to bind out idle persons tho' of full age, &c.

That the select-men or overseers of the poor, where such are annually chosen in any town or parish in this province, or the major part of them, be and hereby are empower'd, with the assent of two of his majesty's justices of the peace for said province, to set to work and employ all such persons, though of full age, married or unmarried, of whatever age they may be, if able of body to work, or perform the service to be so appointed them, who live idly, and use or exercise no ordinary and daily lawful trade or business, by which they might get an honest livelihood and subsistence. And no single person of either sex, under the age of twenty one years, shall be suffered to live at their own hand, or as they please, but under some orderly family government.

Single persons to live under some family government.

Overseers, &c. be authorized to bind out poor children tho' not chargeable to the town.

And be it further Enacted, that the select-men or overseers of the poor aforesaid, or the major part of them, are hereby empower'd from time to time, by and with the assent of two justices of the peace, to set to work or bind out apprentice, as they shall think best for the good of those concern'd, or are the subjects thereof, all such children whose parents shall by the select-men or overseers of the poor, or major part of them, be thought unable to maintain them (whether they receive alms or are chargeable to the town or parish or not) male children, till they come to the age of twenty one years, and females till they come to the age of eighteen years, which shall be as good and effectual in law to all intents and purposes as any way and method of binding out apprentices whatsoever; and the said overseers are hereby order'd to make their contract and indentures for placing out such apprentices equitably, and for the benefit of such children at the least that the males be instructed to read and write, and the females to read, and to do such work and business as may be suitable to their circumstances and condition, so far as they may be respectively capable.

To enquire into the usage they meet with.

And the select men or overseers of the poor shall inquire into the usage of children bound out by themselves or their predecessors in said office, and endeavor to defend them from wrongs or injuries.

Notice to be first given to the parents to put out their children.

Provided always, that the said select-men or overseers shall, before they bind out any such children, not supported by the town or parish where such children belong, give their parents notice, if in the province, and direct them to bind out their children when of an age suitable, and allow them a reasonable time for that purpose: which if they neglect to do, or place them with persons of bad characters, which may probably be prejudicial rather than to the advantage of the children, the said officers may then proceed to bind them out as aforesaid.

When the overseers, &c. place out any person of full age, the agreement to be in writing, &c.

And it is hereby further Enacted, that when any person of full age, shall be so set to work, as aforesaid, if the said officers shall hire or place out any such person, they shall make their contract and agreement in writing, expressing the term which they are to serve, which shall not exceed one year at a time, but may be re-

new'd or made for a shorter time, as there shall be occasion ; and the wages or earnings of the person so hired and placed out, shall be by the select-men and overseers, applied to his or her support and maintenance, and of their families respectively, so far as such earnings will go.

And the person or persons with whom such poor, or idle, or negligent persons shall be placed, shall have the same legal authority over them as masters of apprentices have over them during their apprenticeship.

The persons who hire them to have authority over them.

And the said officers are hereby directed to give notice to such persons before they bind or place them out as aforesaid ; and if they shall neglect usefully to employ themselves, after allowing them a reasonable time, the said officers may proceed as aforesaid.

Notice first to be given.

AN ACT IN ADDITION TO AN ACT, INTITLED AN ACT, FOR REGULATING WEIGHTS AND MEASURES.

Pass'd 6th of George 3. Jan. 22d.

Whereas the said act by experience is found ineffectual to answer the good end thereby intended, as the penalties therein imposed are insufficient to enforce a due observance thereof :

Preamble.

Therefore,

Be it Enacted, by his Excellency the Governor, Council and Representatives, convened in General-Assembly, and it is hereby enacted and ordained by the Authority of the same :

That from and after the passing of this act, every person who shall neglect to bring in their weights and measures at the time and place appointed, (being duly warned thereof) shall forfeit the sum of forty shillings, to be recover'd and applied in the same manner, as by the said act is directed, for recovering the fine therein inflicted for such neglect.

Penalty of 40s. inflicted on those who neglect to bring their weights and measures to be sealed.

And it is further Enacted by the Authority aforesaid, That when and so often as the sealer of weights and measures in any town or parish within this province, shall have probable cause of suspicion that any inhabitant has two sets of weights and measures, according to one, whereof, (being legal) the said inhabitant buyeth, and with the other (being lighter, or smaller) he selleth, and secreteth the latter, or produceth not the same to the sealer ; it shall and may be lawful for the said sealer, verbally to warn the said inhabitant to appear before the next justice of the peace for the said province, who is hereby authorized and required to examine the same inhabitant upon oath, (without fee or reward) touching the same weights and measures, that so the fraud (if any there be) may be detected ; and if the said inhabitant so verbally warned as aforesaid, shall refuse to attend upon the said Justice as aforesaid, the said justice upon satisfactory proof of the said warning, shall issue his warrant to apprehend such delinquent, and bring him or her before him, where if the said delinquent shall refuse to answer upon oath, he or she shall incur and forfeit the same penalty as in

The power of the sealer where he shall have cause to suspect double weights, &c. are used.

the said act is inflicted on persons who shall sell, vend or utter any goods, wares, merchandize, grain, or other commodities by other beams, weights or measures, than such as shall be proved and sealed as the same act requires, and pay costs of prosecution.

Select-men
henceforward
to provide town
standards.

And be it further Enacted, That for the future the select-men of the said towns and parishes, (not already provided) shall at the charge of the towns and parishes respectively, procure all those weights and measures which by the law aforesaid are to be provided by the town clerks, and improv'd and used as standards for the said towns and parishes, and in default thereof for the term of six months from the passing of this act, those select-men who shall be delinquent herein, shall forfeit and pay the sum of ten Pounds, for the use of the poor of the town or parish where the select-men shall be so negligent, to be levied by distress and sale of their goods and chattles, by warrant from any justice of the peace.

Pass'd 6th of
George 3. Jan.
23d.

AN ACT TO AUTHORIZE ANY TOWN OR TOWNS IN THIS PROVINCE, TO BUILD OR IMPROVE AND ESTABLISH ANY HOUSE WITHIN THEIR RESPECTIVE TOWNS, OR IN ANY OF THEM, AS TWO OR MORE MAY AGREE, FOR A HOUSE OF CORRECTION.

Preamble.

Whereas the law of this province for suppressing and punishing of rogues, vagabonds, common beggars, and other lewd, idle and disorderly persons; and also for setting the poor to work, among other things provides, that till a house of correction shall be provided at the charge of the province, the common prison may be made use of for that purpose: which use of the prison, is found by experience to be very inconvenient in many respects:

For remedy whereof;

Be it Enacted by the Governor, Council, and Assembly:

House of cor-
rection may be
provided by any
town for their
own use.

That it shall and may be lawful for any town to build or use any house in the same town which they shall agree upon, for an house of correction, for all the ends and purposes mentioned in the said law or act.

Towns may
join.

And where two or more towns shall incline and agree upon building or hiring and establishing any such house for their joint and particular use, as they respectively or all together may have occasion, and any and all such houses may and shall be under the same regulations, and may have a master appointed over the same, as if such house was prepared and appointed, as directed in and by said act; and such master or masters shall have the same authority as if chosen and appointed, as is therein directed, and for the house mention'd in the act aforesaid.

TEMPORARY
ACTS AND LAWS
OF
HIS MAJESTY'S PROVINCE
OF
NEW HAMPSHIRE,
IN
NEW ENGLAND.

By Order of the GOVERNOR, COUNCIL and ASSEMBLY,
Pass'd October 16th, 1759.

PORTSMOUTH:
PRINTED BY DANIEL FOWLE.
1761.

TEMPORARY LAWS.

AN ACT IN ADDITION TO, AND FOR RENDERING MORE EFFECTUAL, Pass'd 10th of Geo. 2.
AN ACT MADE IN THE THIRTEENTH YEAR OF THE REIGN OF
KING WILLIAM THE THIRD, ENTITULED, AN ACT AGAINST TRES-
PASSING IN TOWN COMMONS; AND AN ACT MADE IN THE SIXTH
YEAR OF QUEEN ANNE, ENTITULED, AN ACT FOR PREVENTING
TRESPASSES.

Whereas the acts and laws already made for preventing tres- Preamble.
passes, hath been found ineffectual for that purpose, so that a
further provision is necessary to be made.

*Be it therefore Enacted by his Excellency the Governor, Council
and Representatives in General Assembly convened, and by the
Authority of the same :*

That from and after the publication of this act, no person or Trees, wood, timber, or underwood, not to be cut without leave of the owner.
persons, do or shall, cut, fell, destroy or carry away any trees,
wood, timber or underwood whatsoever, standing, lying or grow-
ing on the land of any others, or off or from the commons of any
town, other than that to which he or they doth or do belong, or
within the same town, having no right there, without leave or
licence from the major part of the propriety of such commons, or
the owner or owners of the land whereon such trees, timber, wood
or under-wood was standing, lying or growing ; or that shall cut
out or alter the mark of any mill-log or logs in any river or mill-
dam ; or that shall saw or cut into any sort of lumber, any log or
logs that is not their own property, without the owners leave or
licence, on pain that every person so cutting, felling, destroying
or carrying away the same, or cutting out, or altering or sawing
any log or logs, or shall be aiding and assisting therein, shall for
every such trespass, forfeit and pay to the parties injured or tres-
pass'd upon, the sum of forty shillings for every tree or log of one
foot over ; and for all trees or logs of greater dimensions, three
times the value thereof, besides forty Shillings as aforesaid, and
twenty shillings for every tree or pole under the dimensions of
one foot diameter ; and for other wood or underwood, treble the
value thereof ; which several penalties, forfeitures and damages,
shall and may be recovered by action, bill, plaint or information, Penalties several for cutting trees, &c.
upon conviction of the trespasser or trespassers, as is hereafter Suits how to be prosecuted.

specially provided and enacted, before any justice of the peace, if the penalty or damage exceed not forty shillings, but if it be above that value, then before the court of common pleas.

Bars, gates,
fences, not to be
left open.

Stones, oar, &c.
not to be dug up.

Penalty for
leaving open
fences, &c.
and digging
stones, &c.

And be it further Enacted, That if any person or persons, shall throw down, or leave open any bars, gates, fence or fences, belonging to or inclosing any lands held in propriety or common, or belonging to any particular person or persons within any town in this province, or that shall dig up or carry away any stones, oar, gravel, clay or sand, belonging to the proprietors of any common land, or to any particular person or persons as aforesaid, every such offender shall for every such trespass, upon conviction thereof, as in and by this act is hereafter provided, forfeit and pay treble damages to the party or parties injured thereby; and also a sum not exceeding five pounds, according to the nature or aggravation of the trespass; to be recovered in manner as aforesaid.

And forasmuch as it is very hard and difficult to detect and convict any trespasser or trespassers against this act, in the ordinary method or course of the law, because the trespasses are generally committed where positive evidences can scarcely ever be had:

In case disputes
arise upon the
trespass charg'd
against the
defendant.

Be it therefore Enacted by the Authority aforesaid, That in case any dispute arise, upon any action, bill, plaint, or information bro't as aforesaid, where the plaintiff, complainant or informer, shall charge the defendant in trespass for cutting, felling, destroying or carrying away any particular tree or trees, parcels of timber, wood or under wood, or for throwing down or leaving open any fence or fences, gates or bars, or for digging up, or carrying away any stones, oar, gravel, clay or sand, turf or mould, or cut out, or alter the mark of any mill-log or logs, in any river, or at any mill-dam, or on the land; or cut or saw into any sort of lumber, any mill-log or logs that is not their own property, without leave of the owner as aforesaid, or of being aiding or assisting therein: then and in such case if the plaintiff, complainant or informer, his agent or attorney shall make oath (*bona fide*) that there hath been cut, fell'd, destroyed or carry'd away, so many trees or logs, marks of logs cut out or alter'd, or saw'd, or cut into any sort of lumber, or carried away such and so many trees, parcels of wood or underwood, or that any fence or fences, gates or bars, have been thrown down or left open, or that any stones, oar, gravel, clay or sand hath been dug up or carried away, as mentioned in the writ, and that he suspects the defendant to have committed the said trespass; and altho' the plaintiff, complainant or informer may not be able to produce any other evidence thereof, than such circumstances as render it highly probable in the judgment of the court or justice that shall try the cause, or before whom the tryal is; then and in every such case, unless the defendant shall acquit himself upon oath, (to be administred to him by the court or justice that shall try the cause,) the plaintiff shall recover of the defendant damages and costs, but if the defendant shall acquit himself upon oath as aforesaid, the court or justice may and shall enter up judgment for the defendant to recover against the plaintiff his double costs occasioned by such prosecution.

The plaintiff to
make oath that
such a trespass
has been com-
mitted.

The plaintiff
to swear he
suspects the
defendant com-
mitted the
trespass.

The defendant
to acquit him-
self upon oath.

Provided, That nothing in this act shall be construed so as to debar or hinder the surveyors of his Majesty's woods, or the contractors for procuring mast-trees, or any labourers under them, or the surveyors of high-ways, of and from doing any thing necessary and convenient in and about their respective duty as by law empowered.

Surveyors of his majesty's woods, &c. high-ways not to be hindered in their office.

This act to continue in force for the space of five years after the publication thereof, and no longer.

This act to continue five years.

AN ACT FOR REVIVING AN ACT, ENTITULED, AN ACT IN ADDITION TO, AND FOR RENDERING MORE EFFECTUAL AN ACT MADE IN THE THIRTEENTH YEAR OF THE REIGN OF KING WILLIAM THE THIRD, ENTITULED, AN ACT AGAINST TRESPASSING IN TOWN COMMONS; AND AN ACT MADE IN THE SIXTH YEAR OF QUEEN ANNE, ENTITULED, AN ACT FOR PREVENTING TRESPASSES; MADE AND PASSED IN THE THIRTEENTH YEAR OF HIS PRESENT MAJESTY'S REIGN; WHICH ACT BY ITS LIMITATION IS EXPIRED.

Pass'd 29th of Geo. 2:

Whereas the before recited act while in force, was found of great advantage; and whereas the same being temporary is expired; and also a temporary act for reviving the same, is expired:

Be it therefore Enacted by His Excellency the Governor, Council, and Assembly:

That the before recited act, and all and singular the paragraphs, clauses, articles, directions and powers, in the said act contained, shall be, and hereby are revived, re-enacted, directed and ordered to abide and remain in full force, and accordingly to be exercised, practised, and to be put in execution, for and during the space of twenty years from the passing hereof, and no longer.

AN ACT MORE EFFECTUALLY TO PREVENT PROFANE CURSING AND SWEARING.

Pass'd 10th of Geo. 2.

Whereas the laws already in force in this province, for preventing the horrible, impious and execrable vices of prophane cursing and swearing, are found ineffectual for that purpose, and those vices (altho' highly displeasing to almighty God, peculiarly offensive to every christian, as well as scandalous and ridiculous in themselves) are become so frequent and notorious, that unless discountenanced by speedy and severe punishment, may provoke the divine majesty to take vengeance on this iniquity, and cause the land to mourn under his judgments;

Preamble.

Be it Enacted by his Excellency the Governor, Council, and House of Representatives, in General Assembly convened:

Any person guilty of profane cursing or swearing, on conviction to pay a sum not more than eight shillings nor less than four for the first offence.

The offender to pay double for a second offence, and treble for every offence afterwards.

When more profane oaths or curses are uttered at the same time, the repetition to be punished not exceeding two shillings, nor less than one.

Commitment in case of non-payment.

Common soldiers and seamen in case of non-payment to be set in the stocks, not exceeding three hours for the first offence:

For the second offence to be publicly whipped not exceeding 20 nor less than 10 stripes.

Sheriffs and constables required to apprehend any persons unknown to 'em, whom they shall hear swearing or cursing to require aid.

That from and after the twentieth day of August next, if any person or persons shall prophanely curse or swear, in the hearing of any justice of the peace for this province, or being charged therewith shall confess such offence, or be otherwise convicted thereof, on the oath of one or more witness or witnesses, whose evidence shall be satisfactory to the justice who shall take cognizance of the offence, to prove the truth of the fact; every such offender shall forfeit and pay (for the use of the poor of the town, parish or district where such offence is committed) a sum not exceeding eight shillings, nor less than four, according to the aggravations of the offence, the quality and circumstances of the offender, in the judgment of the justice or court before whom the conviction shall be. And in case the same offender shall after conviction offend a second time, he or she shall forfeit and pay double, and if a third time, treble the sum forfeited on the first conviction; and the like treble sum on every conviction afterwards. And if on any trial, proof shall be made sufficient for conviction as aforesaid that more than one profane oath or curse were uttered by the same person at the same time, and in the presence or hearing of the same witness or witnesses, the person so offending shall forfeit and pay for every such oath or curse after the first, a sum not exceeding two shillings, nor less than one, at the discretion of the court or justice before whom the conviction shall be.

And in case any person convicted as aforesaid, shall not immediately pay the sum or sums so forfeited and adjudged, he or she shall be committed to the common goal, there to remain not exceeding ten days, nor less than five, for said forfeiture, and until he pay all legal costs as in other cases.

Provided always, and it is hereby Enacted, That in case any common soldier in his majesty's service, or any common sailor or seamen belonging to any ship or vessel, shall be convicted of profane cursing or swearing as aforesaid, and shall not immediately pay down the sum or sums by him forfeited, such soldier or seaman, instead of being committed as aforesaid, shall by the said justice of the peace or court aforesaid, be ordered to be publicly set in the stocks for the first offence, not exceeding three hours; and for the second or any after offence, shall be publicly whipt, not exceeding twenty, nor less than ten stripes: and if any Indian, Negro or Molatto slave shall be convicted of profane cursing and swearing, and the fine is not immediately paid, such slave shall be publicly whipped, by order of such court or justice, not exceeding twenty stripes, nor less than ten.

And be it further Enacted, by the Authority aforesaid, That if any person or persons shall prophanely swear or curse in the hearing of any sheriff, deputy sheriff, or constable, they and each of them are hereby authorized and required to apprehend and secure such offender or offenders, being unknown to him or them, and to require suitable aid therein, and the said offender or offenders forthwith to carry before some justice of the peace for

this province, to be convicted and punished for the said offence. And in case any person shall be guilty as aforesaid, and shall be known to such officer, or shall be guilty in the hearing of any coroner, grand juror, tything-man, clerk of any court of justice, or select-man of any town, parish or district, and the person so offending shall be known to any or either of said officers, any or every such officer is hereby required forthwith to give information thereof to some justice of the peace aforesaid, for the conviction and punishment of such offender or offenders, in manner aforesaid.

Sheriffs and several other officers required to inform against those they shall hear cursing and swearing, if known.

And be it further Enacted, That every justice of the peace before whom any person or persons shall be convicted of profane cursing or swearing, shall cause the conviction to be drawn up in the form following,

Province of New-Hampshire, ss.

BE IT REMEMBERED, That on the ——— Day of ——— in the ——— Year of his Majesty's Reign, *A. B.* was convicted before me one of his Majesty's justices of the peace for the province aforesaid, of swearing one [or more] prophane oath [or oaths] or of uttering one [or more] phrophane curse or curses [as the case shall be.] Given under my hand and seal the day and year aforesaid.

The form of conviction.

Which form of conviction shall be deemed and taken to be final, to all intents and purposes (saving as is herein after expressed) and the said justice shall cause the same to be fairly wrote over, and returned to the then next court of general sessions of the peace for said province, there to be read in open court, and to be filed by the clerk of said court, and to remain and be kept among the records there. *Provided nevertheless,* That when any person shall be convicted before a justice of the peace as aforesaid, or shall confess the words alledged to have been uttered, and shall plead specially, that the words spoken do not amount to, or import a prophane oath or curse, within the meaning and intention of this act, in such case it shall and may be lawful for such respondent to appeal from the sentence of the justice before whom he was convicted, (who is hereby directed to grant the same) to the next court of general sessions of the peace for said province, if such appeal shall be claimed at the time of declaring the said sentence; and the appellant shall recognize with sureties in a reasonable sum, not exceeding five pounds, to prosecute his appeal with effect, and to perform the order of the said court thereon, which shall be final, and no further appeal or hearing thereof allowed.

Such conviction to be final, and returned to the sessions.

Special pleading excepted.

In that case an appeal granted to the quarter sessions.

And be it further enacted, That if any justice of the peace, upon due information and complaint made against any person or persons for prophane cursing or swearing, shall wittingly and wilfully omit the performance of his duty in the execution of this act, he shall forfeit and pay the sum of five pounds, one moiety thereof to the informer that shall sue for the same, and the other moiety to the use of the poor of the town, parish or precinct where such

Penalty on a justice of the peace omitting his duty.

justice resides, to be recovered by action of debt, or information in any of his majesty's courts of record within this province; and no essoin, protection or wager of law shall be allowed, nor more than one imparlance.

Penalty on the other officers who shall neglect their duty in the execution of this act.

And be it further enacted by the Authority aforesaid, That if any of the officers aforesaid, enjoined by this act to apprehend or to inform against the violaters of the same, shall wittingly and wilfully omit the performance of his duty in the execution of this act and be thereof duly convicted before any justice of the peace for said province, he shall forfeit and pay the sum of forty shillings, to be levied and recovered by distress and sale of the offender's goods and chattles, by virtue of a warrant under the hand and seal of such justice, to be disposed of, the one moiety to the informer, and the other moiety to the use of the poor of the town, parish or district where the offence shall be committed; and for want of goods and chattles whereon to levy the said penalty, it shall and may be lawful for such justice to commit the offender to goal, for the space of six days, there to remain without bail or mainprize, and 'till he pay all legal costs arising.

Penalty on such as refuse to give aid to the officers when required.

And be it further Enacted, That if any person being required to give aid to any sheriff, deputy-sheriff, coroner or constable in the execution of their duty herein before enjoin'd them, shall neglect or refuse the same, and be thereof convicted, by the oath of any of said officers, before any justice of the peace aforesaid, or by any other legal witness or witnesses, to the satisfaction of such justice, such person so refusing, shall forfeit and pay the sum of forty shillings, to be recovered and disposed of as aforesaid. And every person giving aid as aforesaid, shall receive the small allowance for the same, as witnesses in civil causes: and witnesses called to prove any matters of fact, or any person doing any thing necessary to the execution of this act, shall be allowed pay as in other cases, to be taxed against the offender or offenders, and levied in case of non-payment immediately, with the respective forfeitures and penalties aforesaid, as in civil causes.

Allowance to witnesses and others in the execution of this act.

Provided, That no person shall be prosecuted or troubled for any offence against this law, unless the same be prosecuted within twenty days next after the offence is committed: nor unless such person be of years of discretion.

And that no person may plead ignorance of this law:

The manner of publishing this act.

Be it further Enacted, That immediately after the passing hereof, a copy of this act shall be transmitted to every minister of the gospel within this province, to whom it is hereby recommended to read, or cause the same to be read publicly before their respective congregations, immediately after the receipt thereof, and also on the Lord's-day next succeeding the choice of town officers yearly. And the justices of the several courts, at the opening thereof, from time to time, shall cause the same to be publicly read in said courts respectively.

Limitation.

This act to be in force for the term of five years and no longer.

AN ACT IN ADDITION TO AN ACT ENTITLED, AN ACT FOR
ESTABLISHING COURTS OF PUBLIC JUSTICE WITHIN THIS PROV-
INCE.

Pass'd 17th of
Geo. 2.

Whereas the conditions annexed unto bonds and other specialties, are sometimes for the payment of moneys, or the performance of other matters and things at different times; and when upon the first breach of such condition, the bond or specialty has been put in suit, it has been apprehended that the courts of justice, even in equity, can chancer such bonds or specialties to so much only of the debt or other collateral matters to be performed, as it is become due at the time of the action brought, whereby the obligee may meet with difficulty to recover his debt as shall become due:

Be it therefore Enacted by his Excellency the Governor, Council and Representatives, convened in General Assembly, and by the Authority of the same:

That when any action shall be brought and prosecuted on any bond or other specialty, with penalty for the payment of sums of money, performance of covenants, contracts, agreements, matters or things to be done at several times, and the plaintiff recover the forfeiture of such penalty, the court shall enter up judgment for the whole of such forfeiture, and award execution only for so much of the debt or damage as is due or sustained at that time: so always that the said judgment shall stand and be a security to the plaintiff, his executors and administrators, for any further and after payment or damages he or they may have a just right to, by the non-performance or breach of the covenants, contracts, agreements or things in such bonds, or other specialties contained; and may have a writ or writs of *scire facias* on said judgment, from such courts respectively, where the same was obtained against the defendant, his heirs, executors or administrators, suggesting other and further damages, sustained by the non-performance or breach of such covenants, contracts and agreements; and to summon him or them to shew cause why execution should not be awarded upon said judgment, for other and further damages, as set forth in the writ of *scire facias*, and made out to the court; upon which the said court shall proceed as aforesaid, and so *toties quoties*, or as often as such damages shall accrue, and be sued for as aforesaid.

This act to continue for ten years and no longer.

Pass'd 29th of
Geo. 2.

AN ACT FOR REVIVING AN ACT ENTITLED, AN ACT, IN ADDITION TO AN ACT, ENTITLED, AN ACT, FOR ESTABLISHING COURTS OF PUBLIC JUSTICE WITHIN THIS PROVINCE, MADE AND PASS'D IN THE SEVENTEENTH YEAR OF HIS PRESENT MAJESTY'S REIGN.

Whereas the before recited act is expired, the same being temporary, and the same having been found very beneficial whilst in force, and it appearing necessary that the same should be revived.

Be it Enacted by his Excellency the Governor, Council, and Assembly:

That the before recited act, and all and singular the paragraphs, clauses, articles, directions and powers in the said act contained, shall be, and hereby are revived, re-enacted, directed and ordered to abide and remain in full force, and accordingly to be exercised, practised and put in execution for and during the space of twenty years from the passing hereof, and no longer.

Pass'd 27th of
Geo. 2.

AN ACT FOR PREVENTING AND SUPPRESSING OF RIOTS, ROUTS, AND UNLAWFUL ASSEMBLIES.

Be it Enacted by the Governor, Council, and Assembly, and by the Authority of the same, it is hereby enacted and ordained:

Riots upon
conviction to
pay £. 50 or
receive thirty
stripes.

That if three persons or more, shall assemble themselves, with an intent to do any unlawful act, against the person of another, or against several persons, with force and violence, as to kill, beat, wound, or do any other personal injury, or against his, her or their estate or possession wrongfully, or to do any other unlawful act with force or violence against the peace, or to the manifest terror of the people, and being required and commanded by any magistrate, field officer, captain of the militia, sheriff, select-man or constable, (in the town or parish to which officers respectively, in the exercise of their office are limited,) by proclamation to be made in the king's name, in the form herein after directed, to disperse and peaceably depart to their habitations or lawful business, shall not so disperse and depart; or being so assembled, shall do any unlawful act, with force and violence, against the person of any one or more, or against his, her or their estate or possession, or against the public peace, order or interest, in manner as aforesaid, and shall be thereof convicted by due course of law, either before the court of general sessions of the peace, or superior court of judicature, every such offender shall forfeit and pay for every such offence, not exceeding the sum of fifty pounds, and in default of paying the same, within twenty four hours after sentence, shall be whipt on the naked back at some public place, not exceeding

thirty stripes, according to the circumstances aggravating or extenuating the offence; and shall pay the legal cost of prosecution, and shall stand committed till sentence performed. And the form and order of the proclamation to be made as aforesaid, shall be as follows, namely, the officers aforesaid, or any of them, shall among, or as near as they, or any of them can safely, come to the said rioters and command silence to be kept while proclamation is making, and shall then with a loud voice, openly make proclamation in these or the like words: "Our Sovereign Lord the King "chargeth and commandeth all persons, being here assembled, "immediately to disperse themselves, and peaceably to depart to "their habitations, or to their lawful business, upon the pains contained in an act of this province, made in the twenty-seventh "year of his Majesty King George the second, for preventing and "suppressing of riots, routs, and unlawful assemblies.

The manner
of making
proclamation.

The form of
the proclamation.

God save the King.

And if any three or more of the persons so unlawfully and riotously assembled, shall continue together, and not disperse themselves immediately after proclamation made as aforesaid, it shall be lawful for the officers aforesaid, or any of them, (within their respective limits as aforesaid,) to command assistance, and to seize such riotors, or any of them, and immediately to carry them before some justice of the peace for this province, who shall demand and take of each of them, sufficient security for his or her appearance before, and abiding and performing the sentence of the next court of general sessions of the peace, or superiour court of judicature, (according as the nature and circumstances of the case may require, on his or her offence,) and to stand committed till such security shall be given. And all persons of age and ability, are hereby required to aid and assist such officer or officers, being thereunto commanded as aforesaid, to seize and apprehend such riotor or riotors, and carry and keep him, her or them in custody, before a justice as aforesaid, and to convey him, her or them to the common goal, in default of giving security as aforesaid, on pain of forfeiting and paying the sum of twenty pounds, for every instance of refusing or neglecting to give such aid and assistance. And when three or more persons shall be so unlawfully and riotously assembled as aforesaid, and they or any of them, shall prevent and hinder proclamation to be made as aforesaid, and three or more of them shall continue together after such hindrance and impediment, they, and every of them, shall be liable to the same pains and penalties aforesaid, upon conviction as is above directed.

If three or more
shall continue
after proclamation
made, they
may be apprehended before
a justice, &c.

Penalty on those
who refuse to
assist the officer
in seizing
riotors, &c.

Penalty for
hindring proclamation
to be made, and
continuing together afterwards.

Penalty and
punishment
for high handed
riots, &c.

And be it further Enacted, That if twelve persons or more, being armed with clubs, or other weapons; or if fifty persons or more, whether armed or not, shall be unlawfully, riotously, tumultuously or rouserously assembled, any of the officers aforesaid, shall make proclamation, in manner and form aforesaid; and if such persons, so unlawfully assembled, shall not thereupon immediately disperse themselves, according to said proclamation, each of them, and every one who shall wilfully hinder any such officer (who shall be known, or shall openly declare himself to be such)

from making the said proclamation, shall forfeit and pay a fine not exceeding the sum of five hundred pounds, at the discretion of the said superior court, (which only shall have cognizance of the offence,) considering the aggravations attending the same, and shall be whipt thirty stripes on the naked back at the publick whipping-post, and suffer twelve months imprisonment, and once every three months, during said twelve months, receive the same number of stripes as aforesaid.

The superior court's power to remit or mitigate the corporal punishment.

Such riotors liable to answer all damages, &c.

Penalty on rescuers of prisoners or criminals.

What the punishment shall be in case the rescous be made before conviction.

Officers power to command assistance.

If any riotors or rescuers shall be killed in resisting the officers, such officers shall be held guiltless.

This act not to extend to persons lawfully assembled.

Provided nevertheless, It shall be in the power of said court, if they judge proper, upon considering all circumstances, to remit or mitigate the punishment of whipping in such cases. And in case any riotors shall, when so riotously assembled, demolish or pull down, or begin to demolish or pull down any dwelling house, or other house, or any part thereof, any house built for public use, any barn, shop, or ship, or other vessel, or any part thereof, or wound, maim, or do any bodily hurt or injury to any person, such riotors, or those of them who shall be apprehended, shall make good all damages to the party or parties damnified or injured, upon an action of trespass prosecuted for the same, and shall also suffer the respective pains and penalties inflicted by this act, according as the fact shall come under one or the other of the cases herein provided against. And if any person or persons shall rescue any prisoner or prisoners convicted of any crime, out of his Majesty's goal, or out of the custody of any officer or officers aforesaid, or any under or deputy sheriff, such offender or offenders, shall be liable to, and suffer the pains and penalties which such prisoner or prisoners should have suffered, if he, she or they had not been so rescued. But in case such rescous shall be made before conviction of the person or persons so in prison or custody, he, she, or they committing the same, shall be liable to, and suffer all or any of the pains and penalties aforesaid, inflicted on riotors, where the number amounts to twelve, or fifty as aforesaid, at the discretion of the said superior court, (which only shall have cognizance of the offence,) having regard to the circumstances aggravating or alleviating the crime.

And any of said officers shall hereby have power to command assistance in this case, as in manner aforesaid, and the person or persons (being capable) who shall refuse to give the same, being thereto required or commanded as aforesaid, shall be liable to the same pains and penalties, as for refusing to give aid and assistance in the case aforesaid.

And in case any of the rioters in this act mentioned or described, shall be killed or hurt by reason of their resisting the person or persons endeavouring to disperse them, or attempting to seize and apprehend them or any of them, the said officers and their assistants, and every of them, shall be wholly indemnified and held guiltless; as also in the case of a rescous aforesaid.

Provided nevertheless, Nothing in this act shall be construed to extend to any number of persons, at any time assembled, or assembling, for any lawful design or purpose, nor to any thing that such persons shall do, which is or shall be necessary to and for their own defence. And if any of the officers aforesaid, shall maliciously or

causelessly make proclamation in manner and form aforesaid, against any persons lawfully assembled, or cause any persons to be apprehended wrongfully, under colour or pretence of their being riotors, within the meaning and intent of this act, every such officer shall forfeit and pay the sum of one hundred pounds, and shall be liable to an action of trespass on the case, to be prosecuted by the party or parties so maliciously or causelessly complained of, and to pay all damages thereby sustained, and double costs to be taxed with such damages.

Penalty on any officer who shall maliciously or causelessly pursue any persons as riotors.

All fines and forfeitures arising by this act, to be for his Majesty's use, toward the support of his government in this province.

Applications of the fines.

This act to be read at the opening the courts aforesaid, at every term, and at every annual town meeting. And no prosecution shall be sustained for any offence herein prohibited, after one year from the time of committing the fact.

This act to be read at the opening the court, &c.

This act to continue and be in force for the term of three years and no longer.

Limitation.

AN ACT FOR REVIVING AN ACT ENTITLED, AN ACT MORE EFFECTUALLY TO PREVENT PROPANE CURSING AND SWEARING.

Pass'd 26th of Geo. 2.

See page 3.

Whereas the beforementioned act was temporary, and is expired, which act while in force, was found to be of great use, service and benefit :

Be it therefore Enacted by His Excellency the Governor, Council, and Assembly :

That the said act, and all and singular the paragraphs, clauses, articles, directions and powers in the said act contained be, and hereby are revived, re-enacted and directed to abide and remain in full force, and accordingly to be exercised, practiced, and put in execution for the space of ten years and no longer.

AN ACT TO PROMOTE THE INCREASE OF SHEEP.

Pass'd 30th of Geo. 2.

Whereas the increase of sheep would be of very great service to all his Majesty's subjects in this province ; but by the neglect of many persons who keep sheep to take proper care of their rams, who suffer them to run at large with ewes at all seasons of the year (which is found by experience to be very prejudicial to the increase of sheep,) by the yeanning of lambs in an unsuitable season : By which sheep are rather destroyed than increased :

Preamble.

For preventing of which,

Be it Enacted by the Governor, Council and Assembly :

That from and after the publication of this act, no ram shall be suffered to go at large within this province, from the tenth day of

Rams not to run at large from 10th of August

to the 15th of
Nov. annually.

May be im-
pounded.

The impounder
to give notice,
&c.

Forfeited if the
penalty is not
paid.

August, to the fifteenth day of November annually, on the penalty of twenty shillings for each ram, and for every time any shall be found out of the owner's inclosure, between the days aforesaid, to be paid by the owner thereof, to him, her or them who shall impound any ram so found, which any person shall have power and authority to do, as fully to all intents, as they may do by law to beasts taken damage feasant.

And every person who shall impound any ram found as aforesaid, shall give present notice thereof to the owner or owners of such ram or rams, if known, and if not known, then to cause the same to be posted up in writing, at two or more public places in the town, parish or district where such ram or rams shall be taken up, for the term of five days; and if no owner shall appear within that time, or appearing shall refuse to pay the said penalty, with all legal incident charges, then the said ram or rams shall be forfeited to the impounder, or him or them who took up the same, and shall become and be adjudged the absolute property of such person or persons.

This act to be in force for the term of three years and no longer.

Pass'd 33d of
Geo. 2.

AN ACT PROHIBITING THE OWNERS OF SWINE FROM SUFFERING THEM TO RUN AT LARGE, UNDER THE PENALTIES AND LIMITATIONS THEREIN DECLARED.

Whereas the law in force relating to the regulation of swine, is found ineffectual for that end, and by the suffering them to run at large unyoked and unringed, they prove to be a public nuisance, as well as greatly injurious to particular persons: And the owners of them are often losers by the damages those animals sustain, by running in the streets and highways:

Therefore,

Be it Enacted by the Governor, Council and Assembly:

No swine shall be suffered to go out of the owners inclosure, without being yoked and ringed, under the penalty of 3 s. sterl. for each, for the first offence, and s. for the second, and every after offence: to be recovered before any justice.

To be impounded where no owner is known.

That no swine shall be suffered to go at large, or be out of the inclosure of the owner thereof, without being yoked and ringed according to law, by the owner thereof, under the penalty of three shillings sterling for each swine, for the first offence, and five shillings like money for the second, and every after offence of that kind; together with the cost of prosecution, to be forfeited and paid by the owner of such swine, found going at large as aforesaid, (excepting they shall be by any accident let out of such inclosure) to be recovered before any justice of the peace, by any person, to the use of the prosecutor, by action of debt. And in case the owner of swine so found going at large, shall not be known to the party finding them, he shall hereby have power to impound them, and shall give notice in the town or parish where they shall be so impounded, and in the two next towns, by causing a notification

thereof, with the natural and artificial marks (if any) of such swine, and by whom impounded, to be posted in some public places in the respective towns aforesaid; and if no owner shall appear within six days after such notifications are set up, or appearing shall refuse to pay the penalty first abovementioned, if the case shall be under those circumstances, whereby that penalty is incur'd, or the second as the case shall be as aforesaid, with charges of impounding and supporting the said swine, which the impounder shall cause to be done; then the party impounding said swine may apply to the next justice of the peace, who is hereby ordered and directed to issue a warrant of appraisement, to three suitable persons, to apprise the said swine upon oath, (by him to be administred) of their impartiality therein, and the impounder may take such swine to his own use, as in the case of impounding creatures taken damage feasant, which are not replevied at the apprized value: observing the directions of the law in that case. And the party impounding any swine by virtue of this act, shall be allowed all reasonable cost and charges for his trouble, assistance, time in driving, and charge in supporting the said swine as aforesaid. And when the parties concerned cannot agree and settle said cost, the same shall be adjusted and determined by the next justice of the peace, or town clerk where no justice dwells. And if no owner shall appear, and there remains any overplus money, the same shall be delivered to the justice, who shall order the apprisement as aforesaid (and who shall in this case also settle the costs and charges to be deducted) to be by him paid and delivered to the overseers of the poor of such town or parish where the impounding is for the use of the poor there.

To be apprized.

The impounder may take them to his own use.

To pay cost.

Provided nevertheless, That in any town or parish, (having the powers and privilege of towns) where there is common and undivided lands, or lands lying in common or unfenced, where swine may feed to their advantage, such town or parish may at their annual meetings yearly, agree upon any method for regulating the swine within the same for that year, and carrying the same into execution, upon such pains and penalties as shall be adequate to that end.

Proviso where there is common lands.

Provided also, That a common train field, burying yard, landing place, or lands left common for the use of the inhabitants, about any meeting house, school house, or such like common use of small parcels of land, shall not be construed to be within the Proviso aforesaid.

Provided a common train field, &c. not to be within said proviso.

Provided further, That no swine shall be permitted to go at large under the penalties aforesaid, without being well ringed in the nose, notwithstanding the liberty above declared.

Provided in such cases they be well ringed.

And whereas by the above law referred to, the impounder may take the creatures not replevied, at the apprized value, which if overprized, may be injurious to him,

Therefore,

Be it Enacted, That in all cases of impounding, where no replevin is executed, the impounder shall have his election either to take such creatures at the apprized value, or may expose them to sale by public vendue (giving twenty-four hours public notice

In all cases of impounding creatures, the impounder may take them at the apprisement, or sell them.

beforehand of the time and place of the intended sale) accounting for the overplus (if any) according to law.

This act to be in force for eight years, and no longer.

Pass'd 32d of
Geo. 2.

AN ACT IN ADDITION TO, AND FOR RENDERING MORE EFFECTUAL
AN ACT INTITULED, AN ACT FOR THE BETTER REGULATING
HIGH-WAYS.

Be it Enacted by the Governor, Council and Assembly :

Fines doubled.

That all the fines and forfeitures mentioned in the said act, shall be, and hereby are doubled : and for every offence respectively on which any fine or forfeiture is imposed by said act, shall be paid double the sum therein mentioned, in bills of credit of this province of the new tenor, by the offender. And every town and parish invested with the privileges of towns, may make choice of as many surveyors of highways within the same, as shall be judged necessary by the respective inhabitants. And the select men of the several towns and parishes aforesaid, shall within thirty days after the choice of such surveyors, limit their several districts, that they may not interfere with each other in their business.

Three days
notice to be
given before
working on the
high ways.

And every surveyor shall give three days notice at least to every person he shall warn, of the time, place and tools, when, where, and with which he is to attend : Which notice must be personal, or left in writing at the party's last and usual place of residence.

He that is
warned to give
a reason if he
does not attend
within 4 days,
if not the fine
to be levied by
a justice.

And if any person so warned, shall not attend accordingly, nor give the surveyor a good reason for his neglect, within four days after the day he was to have attended, (which time shall be allowed for that end,) the surveyor may apply to any justice of the peace in the same place, or that lives nearest thereto, for process against the offender. And such justice is hereby authorized to grant the same, and to hear the parties thereon, giving at least seven days notice to the party complained of, before the hearing, and to determine and finally adjudge the matter ; from which sentence neither party shall have an appeal ; and to grant a warrant of distress for the sum he shall adjudge against either party, complainant or respondent.

No appeal.

Application of
fines and for-
feitures.

All the fines and forfeitures for disobeying the surveyor, to be applied as follows, viz. one fourth part thereof to be for the use of the surveyor by whom they shall be recovered, and the remainder to the repairing the high ways within his district ; and that said surveyor render an account of the same to the select men, when thereto requested, and pay the ballance in his hands to them for the use of the town, parish or district whereto he belongs.

Exemption.

And be it further Enacted by the Authority aforesaid, That the honourable his Majesty's Council be exempted from all the fines and penalties imposed by this act. And the surveyors of the

town of Portsmouth shall cause the high-way leading to his Excellency's seat to be repaired, with the other high ways and streets of said town.

This act to continue and be in force for the space of ten years and no longer.

AN ACT IN ADDITION TO AN ACT, PASS'D IN THE THIRTY-FIRST YEAR OF HIS LATE MAJESTY'S REIGN, FOR REGULATING THE PROCEEDINGS TO EXTINGUISH FIRES, &C. AND TO PREVENT THE KEEPING OF FIRES IN PLACES UNSUITABLE FOR THAT PURPOSE, AND DANGEROUS TO THE PUBLIC.

Pass'd 1st of
Geo. 3.

Whereas all the buildings in the town of Portsmouth, two or three excepted, are of wood, and are so compacted, that if one of them should take fire in a windy season, almost all the rest would be in danger. Moreover, there are in the most compacted part of the town, sundry old decayed houses, occupied by persons unable or unwilling to make such repairs as are necessary to secure them. There are also fires often kept in tradesmen's shops and other places, without laying proper foundations for that purpose, which endanger the town :

Preamble.

Be it therefore Enacted by the Governor, Council, and Assembly:

That the fire-wards of said town for the time being, or the major part of them, are hereby authorized to inspect and search all such houses and other places whatsoever within their limits, which they shall suspect, and wherein they apprehend any danger to arise from the want of any repairs, or not laying a secure foundation for any fire place, or keeping hay or other combustible matter so near or so exposed to the neighbouring fires as to be likely to be set on fire by them . . . and to order the owner or occupant of any such house or place to make such amendments, repairs and alterations therein, as they shall judge necessary for the public safety, which shall be made accordingly within thirty days (unless the firewards should see fit to lengthen out the time, which they may do if they shall judge it necessary) from the time of giving notice thereof to the owner or occupant. And if the same shall not be done agreeable to such order, and by the time appointed, then the said firewards are hereby authorized to cause the same to be done at the charge of the town ; and the selectmen thereof for the time being, are hereby directed to furnish them with money sufficient for that purpose. And the said selectmen shall have and maintain an action of debt on the account of the charge thereof, which they shall receive from the said firewards (which they are directed carefully to keep and deliver to the said selectmen) for the sum total of such account, as the same shall be finally adjusted and settled by the court of general sessions of the peace. And in order thereto, the said firewards or some of them, shall at the next sitting of said court, either at

Firewards to
view houses and
places they
suspect to be
dangerous with
regard to fire.

And to order
necessary re-
pairs.

If not repaired
agreeable their
order, they are
to do it at the
charge of the
town.

The charge
being settled
by the quarter
sessions may
be recover'd
against the
owner or
occupant.

their proper term, or by adjournment, exhibit the account of any such charge which shall then have arisen, with the proofs and vouchers thereof; and the said court is hereby directed to settle and pass the same, according to justice and right, and to certify thereon their allowance, for which service they may demand of the said firewards one shilling on the pound of the sum total, which shall be allowed, and the fee for allowing the same, shall be added to the account, and the owner or occupant shall pay said account so adjusted on demand, and in default thereof; and if the select men shall be obliged to sue for the same as aforesaid, they shall recover double cost of suit.

For which service they may demand of the firewards one shilling on the pound, &c.

And every such decay'd building in which the owner, him or herself shall not live, or personally occupy and improve, which the said firewards apprehend to be dangerous and irreparable without more charge than the building would be worth when repaired, they may cause the same to be totally demolished at the cost of the owner or occupant, to be recovered as aforesaid, but the materials to remain for the use of the owner.

Buildings not worth repairing to be demolished at the cost of the owner or occupant.

And be it further Enacted, That any tenant who shall be obliged to pay any sum of money by virtue of this act, shall be allowed for the same out of the rent of the tenement he holds, and may justify the withholding so much from the owner or person to whom the same is payable, unless the parties concern'd shall otherwise agree, or the matter is otherwise adjusted.

The owners of such buildings to pay the costs.

And it is hereby further Enacted, That every house of two stories high, which has four fire places, shall be provided with one leather bucket fit for, and to be used in case of the breaking out of fire; and every such house with six fire places, shall be provided with two such buckets at the charge of the owner or occupant thereof, as aforesaid, which buckets shall be provided within six months from the passing this act. *Provided nevertheless*, that it shall be in the power of the firewards to grant a further time, not exceeding one year, to such persons as they shall judge may have a claim to that indulgence, and to substitute the use of any other kind of buckets for the end, and to be provided as aforesaid in the mean time.

Buckets to be provided.

The firewards may give further time.

And every house shall have thereon a good ladder or ladders to reach from the ground to the ridge pole thereof, to be provided at the cost of the owner or occupant, to be allowed as aforesaid, within six months from the same time. And if any person shall neglect so to provide buckets and ladders according to the tenor and meaning of this act, he or she shall forfeit and pay the sum of fifteen shillings, to be recovered by the select men as aforesaid, with double cost, and so *toties quoties* for every succeeding six months from the passing of this act, or the time to be granted as aforesaid, which he or she shall neglect to provide the same. And the said forfeiture shall extend to each of the said articles.

Ladders to be provided.

Penalty for neglect.

To what part of the town these regulations extend.

And be it further Enacted, That the said regulations shall extend only to that part of said town contained within the following boundaries, viz. Beginning at the creek leading to Islington on the western side of the rope-walk, occupied by George Boyd, which runs down said creek, thence running to the westerly head of

Pickerin's mill-pond, thence down the said pond to the river, thence up the river called Piscataway river, to the mouth of the said creek, then up the said creek, to the place where it began. And the said firewards are authorized to examine and determine as to the observation and compliance with this act, and may be allowed as competent witnesses in any suit that shall be commenced for any forfeiture incurred by virtue of this act. And all such penalties and forfeitures shall be applied to purchase such necessary tools and instruments to be used upon the breaking out of fire, as the said wards shall judge proper, for the use of that part of said town circumscribed as aforesaid. And in all the matters and things to be performed by the firewards as aforesaid, the major part of them may do the same.

The firewards to see that this act is observed.

Application of fines.

And whereas in and by an act pass'd in the thirty first year of the reign of his late majesty George the second, for regulating the proceedings to extinguish fires, &c. among other things *it is Enacted*, That any person who shall conceal any goods not belonging to him or her, which shall come to their hands at the time of the breaking out of any fire, and shall not dispose thereof as directed in said act, within twenty days after proclamation, as therein mentioned, shall be subject to the same fine and damages as in cases of theft, as may at large appear by said act, which time of twenty days is found by experience to be too long, and attended with many inconveniencies.

An alteration of the time for returning goods, taken in times of the breaking out of fire.

For remedy whereof,

It is hereby Enacted, That the said time of twenty days for the purpose therein declared, be not hereafter allow'd nor any longer than four days, to be computed from the making proclamation, as the said act directs.

And any town or parish in this province—if they shall see cause, may chuse firewards, and put this act in execution within such limits as the said wards and the select men, or the major part of them shall determine and bound out.

Any town or parish may use this Law.

This act to be and continue in force for the space of three years and no longer.

AN ACT IN ADDITION TO SEVERAL LAWS OF THIS PROVINCE RELATIVE TO PROPRIETORS, DIRECTING HOW PROPRIETARY MEETINGS OF THE OWNERS OF LAND AND OTHER REAL ESTATE, LYING AND HELD IN COMMON AND UNDIVIDED, MAY BE CALLED, AND THEIR COMMON AND PUBLIC AFFAIRS TRANSACTED.

Pass'd 1st of Geo. 3.

Whereas it would greatly facilitate the settlement of new townships and other unimproved lands, as well as be advantageous to proprietors of other real estate held in common and undivided, to have a law for raising and levying money among themselves, or upon the rights and interests so held in common, in a summary way, which the laws already in force imply and suppose, but do not particularly direct in such cases, whereby the money deter-

Preamble.

mined to be raised for improving the common interest, is seldom seasonably paid, and oftentimes not paid at all, but by a few who are willing, while others who neglect their duty herein, reap the benefit of such payments, though by their neglect they greatly retard the good of the whole, and the burden falls unequally on those who are jointly interested :

For remedy whereof ;

Be it Enacted by the Governor, Council and Assembly:

Proprietors may apply to a justice of peace to call meetings, &c.

Justices duty.

The estate lying in common to stand chargeable for each proprietor's part of the taxes.

Collectors duty and power.

That where no particular method has been settled and agreed upon by any such proprietors for calling their meetings (which they may do at any legal meeting) any justice of the peace is hereby authorized, upon the application of so many of said proprietors as own a sixteenth part of the shares, rights or interests of the whole made in writing, expressing their desire that he would notify and call a meeting of the proprietors, and the end and design of it, he shall issue a warrant or notification to the proprietors who are to meet, setting forth that such application has been made, the time and place of holding, and the business to be transacted at the meeting, and shall deliver the same to one of the proprietors who made such application, who shall cause the same to be printed in some public news paper which shall be most likely to notify the major part of the proprietors, three weeks successively, and shall also cause the same to be posted up in some public place within the town or parish where such estate lies (if within any settled town) the same time before the day of holding such meeting. And such proprietors may at such or any other legal meeting, chuse any officers they shall judge necessary, to do any business of the proprietors, who shall be sworn to a faithful discharge of the duty and office to which they shall be respectively chosen, and shall continue therein, and be hereby authorized to discharge the same until others shall be chosen to succeed them.

And be it further Enacted, That the interest and estate of every such proprietor so lying in common, shall be liable to pay, and stand charged with his part and proportion of any sum of money, which at any legal meeting shall be agreed upon and voted to be raised ; and those who shall be chosen to assess and proportion the same amongst the proprietors commonly called assessors, shall set such proportion to the original right or proprietor, and commit the list thereof with a warrant or precept to the person chosen to collect the same, therein setting forth his duty agreeable to this act, the time for compleating the collection, and to whom the money is to be paid. And such collector is hereby directed, upon receiving the same, to give notice in manner and form aforesaid, of the assessment and where the same shall be paid and receiv'd ; as also, that if payment shall not be made accordingly, the money will be levied by sale of so much of the interest and property of the proprietor who shall be delinquent therein, fourteen days after the last week of notice, as aforesaid. And in case the money shall not be paid by the expiration of the fourteen days,

then the collector shall give notice in the same manner, of the time and place of the intended sale of so much of the delinquent proprietor's right, share and interest in the propriety, as will answer the demand with incidental charges; and may then proceed to make sale thereof, unless at any time before the sale is actually made, by executing the deed of conveyance thereof, the money with all charges shall be paid by, or in behalf of the owner of the estate to have been sold. And the collector aforesaid, is hereby authorized to make sale of such estate as aforesaid, and to execute a good deed or deeds thereof to the purchaser or purchasers, as there shall be occasion, of all the right and demand of such proprietor therein, and shall return the overplus money, if any should be, after deducting the charges of advertising for sale as aforesaid, with all other legal charges, immediately to the person or persons to whom it legally belongs. But the charge of the first advertisement of such assessment shall be defrayed by the proprietors: saving the rights of feme coverts, infants, persons in captivity, or beyond seas, so far as to allow to them one year after their respective impediments are removed, they paying the sum due as aforesaid, with the interest thereof, at the rate of six per cent per annum, and to their heirs and assigns respectively, to redeem the same. And all votes shall be computed according to the interest, as is directed by law. And any proprietors aforesaid, are hereby authorized at any legal meeting, to confirm, ratify and establish any grants, conveyances, votes and transactions by them designed and intended to be made, done, performed and transacted, agreeable to such design, intention and aim, notwithstanding any want of form, legal and proper terms, or defects, and defaults of process, relative to the premises.

The rights of
infants, &c.
saved.

Votes to be com-
puted according
to the interest.

Power to ratify,
&c.

This act to be, and continue in force for four years, and no longer.

AN ACT TO ENABLE THE COURT OF GENERAL SESSIONS OF THE PEACE, TO GRANT AS MANY TAVERNKEEPERS IN EACH TOWN, PARISH AND PRECINCT WITHIN THIS PROVINCE, AS THEY SHALL JUDGE CONVENIENT.

Pass'd 27th of
Geo. 2.

Be it Enacted by his Excellency the Governor, the Council, and Assembly:

That the court of general sessions of the peace within this province be, and hereby are authorized and impowered to grant and allow of as many tavernkeepers in each town, parish, precinct and district within this province, as they shall judge convenient; such persons applying for the liberty of keeping tavern, not having kept tavern before, producing a certificate from the select-men of such town, parish, precinct or district (when there are select-men) or the major part of them, of their approbation of such person for

Quarter sessions
to licence as
many persons to
keep tavern as
they think
proper.

keeping a tavern ; and where there are no select-men, to get the best information they can.

This act to continue and be in force for the space of five years, and no longer.

Pass'd the 33d
year of Geo. 2.

AN ACT FOR REGULATING THE ADMEASUREMENT OF LUMBER, THE
GAGING OF CASK, THE MAKING AND SIZE OF BRICKS.

Preamble.

Whereas the regulation of the above named articles, is highly necessary to prevent fraud and injustice, and the dealers in such merchandize from suffering wrong on the one hand, or gaining any undue advantage on the other :

Therefore,

Be it Enacted by the Governor, Council, and Assembly :

Boards to be
square edged,
and one inch
thick.

That all pine boards of every sort and kind, shall be sawed or manufactured with square edges, and shall be at least one inch thick in every part thereof, or they shall not be accounted nor sold as merchantable, unless in the admeasurement an allowance shall be made for what shall be wanting of such thickness, but no allowance shall be made for what any part of a board shall exceed that thickness, unless it shall exceed in every part, and in that case, it shall be considered and allowed in measuring, according to the true quantity of the whole.

Thickness of
plank.

And no plank of any sort or kind, shall be accounted and sold as merchantable, that is not at least two inches thick in every part ; and observing that as the standard for the thickness, the admeasurement shall be in the same manner as aforesaid.

And all joist of every sort and kind, shall be square edged, or shall not be deemed and sold as merchantable.

Length of red
oak hogshead
staves.

And all red oak hogshead staves, shall be forty two inches in length, four inches in breadth, and three quarters of an inch thick in the thinnest part thereof.

Length of
white oak.

And all white oak hogshead staves, shall be forty-two inches in length, of the same breadth and thickness as the red oak aforesaid.

Pipe staves.

And all white oak pipe staves, shall be forty six inches in length, four inches and an half in breadth, and three quarters of an inch thick in the thinnest part as aforesaid.

Butt staves.

And all white oak butt staves, shall be fifty-four inches in length, five inches in breadth, and one inch thick in the thinnest part thereof. White oak barrel staves, shall be thirty inches in length, three inches and three quarters of an inch broad, and five eighths of an inch thick, measuring as aforesaid. And no staves, under the sizes and dimensions aforesaid, of the respective kinds, shall be accounted and sold as merchantable.

Shingles, size
of them.

And all shingles, shall be either eighteen or fifteen inches in length, and shall be sold for the one or the other ; and neither of said sorts shall be less than three inches in breadth, and shall hold

out, one with another, four inches and an half in breadth, and be half an inch thick, and be well rived and shaved, and shall be bound up in bundles, of five hundred, or only two hundred and fifty in a bundle, when offer'd to sale.

And all clap-boards, that shall be exposed to sale, shall be made of good sound timber, and of the following dimensions, namely, five eighths of an inch thick, five inches broad, and four feet and six inches long ; and shall be well rived, shaved, and made strait ; and shall be bound in bundles, each of which shall contain no more than fifty, when offer'd to sale.

Clapboards
dimensions.

And all staves and shingles, which shall not, when culled and measured, as is herein after directed, hold out and agree to and with the sizes aforesaid, stated for each sort, such as are found defective, shall be forfeited, and sold as refuse by the surveyor, for the use of the poor of the town or parish where they are so found.

Penalty.

And be it further Enacted, That the select-men of every town and parish, having town powers and privileges, are hereby authorized and directed, as soon as they shall be qualified to act in their office, to appoint a competent number of suitable persons, within their respective limits, annually, or oftener if necessary, to survey, measure and cull, the several kinds of lumber aforesaid, according as the nature of each sort requires, according to the rules aforesaid, within their several limits, as often as they shall be severally requested, who shall be sworn to the faithful discharge of the duty of their office, for the year then current, and until another shall be appointed and sworn to act in their stead respectively.

The select-men
to appoint surveyors, &c.

And when any of said kinds of lumber shall be offer'd to sale, which has before been measured, marked and culled, if the purchaser shall desire it, the same shall again be surveyed and examined by a surveyor appointed and qualified as aforesaid ; and if upon such survey and examination, it shall be found, the former measuring, marking and culling, was right, by the rules and standard aforesaid, stated for each kind, the purchaser shall pay the cost and charge of the latter, but if not, the vender shall pay the same. And such surveyor shall inspect, measure, mark and cull the lumber according to the nature and quality thereof, by the rules aforesaid, within his limits, at the charge of the owner, excepting as aforesaid ; and shall *ex officio* seize and dispose of all staves, shingles and clap-boards, which he shall find do not comport and agree with the respective sizes directed and stated in and by this act, as refuse of the respective kinds aforesaid, for the use aforesaid.

Lumber surveyed, if requested shall be measured again at the charge of him who demands it.

Surveyors duty.

Defective lumber to be seized.

And such surveyor, measurer, and culler, shall be paid for his service herein as follows, viz. For measuring and marking boards, plank and joist, four pence a thousand feet. For culling any sort of staves, six pence a thousand. For surveying and counting all shingles, and clap-boards, one penny a thousand : and for every thousand of shingles and clap-boards, that he shall cull, and bind up again, three pence per thousand, and in that proportion for a lesser quantity.

Fees for surveying, &c.

And all shingles and clap-boards that shall be exposed to sale in bundles, which shall not hold out the number for which they

Penalty for defective shingles, &c.

are marked, shall be forfeited, to the use of the poor of the town or parish where they are exposed to sale, the charge of searching and counting them being first deducted and paid, unless it shall appear that some have been drawn and shaken out of the bundles after packing.

Penalty on the
surveyor refusing
to attend his
duty.

And if any person so appointed to said office, and sworn as aforesaid, shall refuse to attend said service, when requested to do it, (having no just excuse) he shall forfeit and pay the sum of twenty shillings, the one moiety thereof to the use of the poor as aforesaid, where he dwells, and the other to him or them who shall inform and sue for the same. And every person who shall be appointed to said office, in manner aforesaid, who shall refuse to take the oath, and to serve therein, shall forfeit to the use aforesaid the sum of twenty shillings.

Penalty for not
serving; And on
the select men
for not appoint-
ing.

And in case the select-men of any town or parish aforesaid, shall neglect their duty herein as above prescribed, they shall forfeit and pay for the use aforesaid the sum of forty shillings for every month's neglect.

Gaging of cask
by Gunter.

And be it further Enacted, That all cask in which rum, wine, or other spiritous liquors, or molasses, shall be exposed to sale by the gallon, shall be mathematically gaged, by Gunter's scale, and the quantity said cask can contain, together with the ullage thereof, set and marked on one head, by the gager, with a marking iron, for which he may demand and receive three pence from the owner or owners thereof, for every cask by him so gaged, and no more.

Second gaging.

And in case any purchaser shall not be satisfied with the account so marked, he may have the same gaged again in his presence; and if upon such examination, the account aforesaid shall be found to be true, such second gaging shall be at the cost of the purchaser, but if it is found to differ, the second also shall be at the cost of the owner as aforesaid.

Select men to
appoint gagers.

And the select-men of the several towns and parishes aforesaid, are hereby ordered, as there shall be occasion, or when they shall be requested by any of the inhabitants within their respective limits, to nominate and appoint a fit person or persons to the said office, who shall serve till another shall be chosen and sworn in his or their stead, to the true and faithful discharge thereof, as every one who shall be thereto appointed, shall be, by any justice of peace, in the following words, *mutatis mutandis*: — You *A. B.* being appointed a gager, according to law, do swear, that you will diligently attend, and faithfully discharge and execute the office and duty of a gager, within the limits whereto you are appointed, until another shall be chosen, and sworn in your place, and that in and by all the particulars mentioned in the law, whereto your office hath relation, and you shall act therein impartially, without fear or favour. So help you God. — And every gager shall be furnished with suitable instruments, at the charge of the town or parish for which he is appointed.

Oath.

To be furnish'd
with suitable
instruments.

Penalty for
selling without
being so gaged,
&c.

And every person, who shall presume to sell any rum, wine, spiritous liquors, or molasses, as aforesaid, without being gaged and marked as this act directs, shall forfeit and pay the sum of

five pounds, the one half for the use of the poor of the town or parish where the offence is committed, and the other half to any person who will sue for the same; or said forfeiture may be recovered by presentment of the grand jury, at the court of general sessions of the peace, in which case the whole of the forfeiture shall be for the use of the poor, as aforesaid.

And be it further Enacted, That all bricks which shall be made for sale, in this province, shall be made of clay which shall be digged and thrown up before the tenth day of December yearly; and shall be so laid, as that it may be thoroughly frozen in the winter following; and shall be well wrought, and made into good mortar before it shall be cast into moulds for bricks: and no person making bricks for sale as aforesaid, shall temper his clay with salt or brackish water, nor dig any clay for that purpose where the salt water comes.

Bricks how to be made.

And the size of bricks, shall not be less than nine inches long each, four inches and a quarter of an inch broad, and two inches and an half inch thick, and shall be well burned.

And all moulds for the making bricks for sale, shall be nine inches and a quarter of an inch long, four inches and a quarter and half a quarter of an inch broad, and two inches and half an inch deep, within side, to be well shod with iron, and sealed, by a sealer to be appointed as is herein after directed; so that the bricks may be of the dimensions above prescribed, when well burned, as near as may be.

Size of moulds, &c.

And whosoever shall expose any bricks to sale, as merchantable, not made in moulds so formed and sealed, and not well burnt, shall forfeit one half of all such bricks, or the value thereof to the use of the poor of the town or parish where they shall be exposed to sale, to be recovered in the common course of the law, by the overseers of the poor of such place.

Penalty.

And the select-men of the several towns and parishes aforesaid, are hereby directed to appoint, as for lumber aforesaid, a suitable number of persons, duly qualified, within their respective limits, to be surveyors of said moulds and bricks, who shall be sworn to the faithful discharge of said office by a justice of the peace; and are hereby empower'd, from time to time to enter into brick-yards within their respective limits, to view the moulds used there for making of bricks, and if they shall find any moulds so used, which are not of the form aforesaid, to break the same, and seal or mark such as are. And every person making bricks for sale as aforesaid, shall, after the same are burnt, when he shall count them out for sale, call the surveyor to survey and examine them, to see if they are merchantable, according to the directions and form aforesaid; and if he shall find them defective, he shall forbid the owner to expose them to sale as merchantable; and if notwithstanding they shall be so sold, or offer'd to sale, the owner shall incur the forfeiture aforesaid.

Surveyors to be appointed.

Their duty.

And the owner shall pay the surveyor two pence a thousand, for surveying burnt bricks, and one penny for each mould, by him sealed, or marked, as aforesaid.

Fees.

Penalty on the surveyor neglecting his duty.

And such surveyor shall incur the same penalty for refusing to do his duty in this case, as is herein before inflicted on surveyors of lumber in the like case. And the select-men neglecting their duty of appointing surveyors of bricks, as they are herein before directed to appoint surveyors of lumber, shall incur the like penalty for their neglect in this case as in that.

The sums mentioned meant to be Sterling.

And all the sums herein before mentioned, are meant and intended, and are hereby declared to be lawful money of Great-Britain, and may be paid by silver, gold, or any of the bills of this province equivalent.

[This act to continue and be in force for the full term of three years, and no longer.]

Pass'd 6th of George 3. Jan. 16th.

AN ACT TO REGULATE THE PRICE AND ASSIZE OF BREAD.

Preamble.

Whereas a just proportion between the price of flour and the weight and price of bread, is now a matter of importance, as many people purchase the greatest part of their bread of bakers, and without such regulation they are left to judge for themselves, where their impartiality will be much questioned; and as it is reasonable they should be allowed a suitable profit in their business, to encourage their industry and their fidelity in vending wholesome well made bread, it is necessary a just medium should be established:

Therefore

Be it Enacted by the Governor, Council, and Assembly:

The select-men of every town, &c. to ascertain the weight of bread every month.

That from and after passing of this act, the select-men of each town and parish, (having the privilege of towns) where bread is baked for sale, shall once every month, and oftner if they see cause, ascertain, declare and publish, the assize and weight of all sorts of bread to be sold, or exposed to sale by any baker, or other person, having respect to the common market price at which flour is sold in the town or parish respectively, where the assize and weight of bread shall be so ascertained and published, allowing a reasonable profit to the baker for his labour, not exceeding two shillings lawfull money, for making and thoroughly baking one hundred pound, averdupoize weight of flour into good bread, which regulation the select-men of every town and parish aforesaid, shall cause to be effectually published within their respective limits. And no person shall make, sell, or expose to sale, any bread but such as is made of good sweet wheat flour, or such other coarser sort as shall be allowed by the select-men of the town or parish where the same shall be sold or exposed to sale, and the assize and price thereof fixed and declared as aforesaid.

No person to sell bread but such as is made of good flour.

And the assize of good flour bread shall be as follows, viz.

Flour per hundred.		Penny loaf white.		Bisket of one copper a piece.	
		Ounces.	Drams.	Ounces.	Drams.
	10s.	14	15	9	15
	11	13	9	9	1
	12	12	7	8	5
	13	11	8	7	11
	14	10	10	7	2
	15	9	15	6	10
	16	9	5	6	4
	17	8	12	5	14
The TABLE.	18	8	4	5	8
	19	7	14	5	4
	20	7	7	5	0
	21	7	2	4	12
	22	6	12	4	8
	23	6	8	4	5
	24	6	3	4	2
	25	5	15	4	0
	26	5	12	3	13
	27	5	8	3	11
	28	5	5	3	9
	29	5	2	3	7
	30	4	15	3	5

In which table there is no allowance to the baker for his labour, but that allowance when settled by the select-men, is to be added to the prices of the hundred weight of flour, and the assize and weight of the bread to be taken against the sum which is the amount of both in the table. And every person who shall expose bread to sale or bisket to sale as aforesaid by tale, shall fairly mark and imprint such distinct marks thereon, as shall be appointed or allowed by the select-men, within their respective limits, so that their bread may be known and distinguished.

Allowance for
baking to be
made by the
select-men.

Bread to be
marked.

And be it further Enacted, That if any person exposing bread to sale, shall not observe the assize to be ascertained by virtue of this act, or who shall sell or expose to sale any such bread wanting the due weight ascertained as aforesaid, or that shall not be marked as aforesaid, or who shall break such orders and regulations, as shall from time to time be made by virtue of this act, being thereof convicted by confession, or two or more credible witnesses upon oath, before one or more of his majesty's justices of the peace for this province, the party so offending shall forfeit for every such offence the sum of twenty shillings, to be levied by distress and sale of the goods and chattels of every such offender, by warrant from the said justice or justices; the one half to the use of the poor of the town, or parish wherein the offence shall be committed, and the other half to the use of the informer. And if any person shall sell, or expose to sale any bread made of any mixture of flour, or meal, other than shall be appointed by the assize settled in the place where such bread shall be exposed to sale, or shall be so sold, every person so offending, shall for every such

Penalty incurred
for not observ-
ing the assize
fixed.

offence forfeit and pay the sum of twenty shillings, to be recovered in form aforesaid for the use aforesaid.

Prosecutions to
be within seven
days.

Provided nevertheless, that no person shall be convicted in manner aforesaid, for any of the said offences unless the prosecution in order to such conviction, be commenced within seven days next after the offence committed.

Liberty of
appeal.

And it is hereby further Enacted and provided, That if any person so convicted shall think him or herself aggrieved, such person may appeal to the next court of general sessions of the peace for said province, at which court the same shall be heard and finally determined; and if the appellant shall not make good the appeal, or shall neglect to prosecute the same, the said court is hereby authorized on complaint of the informer, to award legal costs, and to commit the appellant until he or she shall pay the same, with the penalty adjudged on the conviction from which the appeal was entered; but in case the appellant shall recover a sentence of said court for reversing the conviction, such appellant shall recover his or her legal costs, and the court shall give judgment and award execution accordingly.

Penalties on
justices for ne-
glect.

And if any justice of the peace shall on any such information made to him, of any offence committed against this act, wilfully and willingly omit the performance of his duty thereon, in the execution of this act, he shall forfeit and pay the sum of forty shillings, to be recovered by any person, who shall inform and sue for the same, in any of his majesty's courts of record in this province to the uses aforesaid.

Power to seize
bread wanting
in weight, or bad
in quality.

And be it further Enacted, That it shall be lawful for any one of his majesty's justices of the peace aforesaid, with two or more of the select-men of any town or parish aforesaid, at all times hereafter in the day-time only, to enter into any bake-house, stall, out-house, ware-house, shop or other apartment belonging to any baker or seller of bread, where their bread for sale is kept, there to search for, view, weigh, or try all bread of such person, or which shall be there found: And if any such bread which shall be found there, shall upon such examination be found wanting either in the goodness of the materials, with which it was made, or in the due working or baking thereof, or shall be deficient in the due weight, or shall not be truly marked as aforesaid, or shall be of any other sort than shall be allowed by virtue of this act, in every such case it shall and may be lawful, for the said officers to seize and take such bread, and cause the same to be forthwith given and distributed to the poor of the town or parish where such seizure shall be made. And if any baker or other person selling bread, or the maker of bread for sale, shall not permit or suffer such search or seizure to be made by virtue of this act, or shall oppose, hinder or resist the same, the person so offending shall for every such offence, forfeit and pay the sum of three pounds, to be recovered in the summary manner and form herein before first mentioned, before a justice of the peace, to be applied and disposed of as aforesaid. And the said officers shall have the same authority to seize, give and distribute all such bad and deficient bread,

Penalty for op-
posing the
officers.

which they shall find that shall be brought into any town or parish, to be sold which was not made there. Provided always, that a proper allowance shall be made, for drying of basket, but not to exceed two ounces in the pound.

This act to continue and be in force for five years and no longer.

AN ACT TO ENABLE THE INHABITANTS OF SUCH TOWNS IN THIS PROVINCE, AS HAVE NOT HAD A REGULAR METHOD TO CALL TOWN-MEETINGS, OR AT PRESENT HAVE NO SUCH METHOD, TO CALL THEM HEREAFTER AS THE LAW DIRECTS.

Pass'd 6th of
George 3d. Jan.
10.

Whereas it sometimes happens, that the annual meetings of the Inhabitants of some towns in this province, have not been duly held, and so no regular method is established, and no meeting can be called without a particular act for that purpose, which occasions frequent applications to the assembly, for relief in such cases.

Preamble.

Therefore,

Be it Enacted by the Governor, Council, and Assembly:

That when any town in this province shall by any accident or otherwise, not be in a capacity to call a meeting for the choice of town officers, that on the application of ten freeholders, inhabitants of any such town, to any justice of the peace of this province, made in writing, desiring that a meeting may be call'd for the choice of town officers, (as the law directs) that such justice shall be, and hereby is authorized and impower'd to call a meeting of such town, which he shall do by posting up a notification in some public place in such town, fifteen days before the time of holding such meeting; which notification shall mention the time, place and occasion thereof, as also that application was made as above mention'd for the same, and such justice shall attend and govern such meeting, until a moderator shall be chosen to govern the same.

Justice of the
peace to call
town meetings
in case.

This Bill to be in force for five years and no longer.

PORTSMOUTH, in NEW-HAMPSHIRE;
Printed and Sold by D. & R. FOWLE, 1766.

Pass'd 6th of
George 3d July
1, 1766.

AN ACT IN ADDITION TO AN ACT DIRECTING THE ADMISSION OF
TOWN INHABITANTS.

Preamble.

Whereas the said Act has not sufficiently provided against persons secretly entertaining strangers in their houses, till they become Inhabitants, which by another law of this province they are allow'd to be in three months, by which means many persons become inhabitants of towns before they are known to live in the town by the officers, whose care it is to take notice of such matters:

For remedy whereof,

Be it Enacted, by the Governor, Council and Assembly:

Persons not to
be entertain'd
more than 20
days without
giving notice.

That the inhabitants of the several towns within this province, and parishes, having the privileges of towns, who shall receive, admit and entertain any person or persons, not being inhabitants of such towns or parishes, either as inmates, boarders or tenants, in the house where such person dwells, or in any other house whatsoever, within this province, or under any other qualifications whatsoever, for more than the space of twenty days, and shall not in writing under their hands, give an account to one or more of the select men, or the town clerk of such town, of all such person or persons so received, admitted or entertained by them, with the time they first received them, and the place from whence they last came, together with their circumstances as far as they can, shall for every such neglect forfeit and pay the sum of twenty shillings to be recovered by bill, plaint or information, before any justice of the peace, or in any of his majesty's courts of record within this province, the one half of the said fine to be employ'd to and for the use of the poor of the town or parish where such offence shall be committed, the other half to him or them that shall inform and sue for the same, and they shall be liable to answer all charges that may arise in said town or parish, by receiving and entertaining such person or persons as aforesaid, to be recover'd by the town treasurer or select men where no treasurer is appointed, who are hereby respectively empower'd to bring an action accordingly.

Forfeiture for
neglecting.

Charges arising
by warning, how
defray'd.

And be it further Enacted, That all costs and charges arising, by warning any such persons as are not inhabitants, entering the caution or carrying them out of town, shall be defray'd and paid by those who receiv'd and entertain'd such person or Persons in their houses as aforesaid, and shall be recover'd as aforesaid, for the uses aforesaid, and the town treasurer or select men aforesaid are hereby directed and order'd before they bring their action, to exhibit to such who receive and entertain any person or persons in their houses as aforesaid, an account of the charges arising thereby, and upon refusing to pay the same within five days, they shall be liable to pay said charge, and be depriv'd of any benefit by their notification tho' given within the twenty days as aforesaid.

Limitation.

This Act to continue and be in force for the term of five years and no longer.

AN ACT FOR REVIVING AN ACT INTITLED AN ACT IN ADDITION TO SEVERAL LAWS OF THE PROVINCE, RELATIVE TO PROPRIETORS, DIRECTING HOW PROPRIETARY MEETINGS OF THE OWNERS OF LANDS AND OTHER REAL ESTATE, LYING AND HELD IN COMMON AND UNDIVIDED, MAY BE CALLED, AND THEIR COMMON AND PUBLIC AFFAIRS TRANSACTED. PASSED IN THE FIRST YEAR OF GEORGE THE THIRD.

Pass'd 6th of
George 3d Jan.
10, 1766.

Whereas the before recited Act has been found beneficial, for the settling new townships, and as the same is now expired :

Preamble.

Be it therefore Enacted by the Governor, Council and Assembly :

That the before recited act, and all and singular, the paragraphs, articles, directions and powers in said act contain'd shall be and hereby are reviv'd, and re-enacted, directed and ordered to abide and remain in full force, and accordingly to be practiced and put in execution.

This Act to be in force five years and no longer.

Limitation.

AN ACT FOR THE EASE AND RELIEF OF PRISONERS FOR DEBT.

Whereas the detaining prisoners for debt in goal, who have no estate, nor any visible means or rational prospect of discharging their debts while they are held in prison, but become more deeply involved, which is a great damage to the creditors as well as to the prisoners and their families; and when they are capable of labour their detention becomes a public loss, and the confining prisoners for debt with criminals is not expedient, or any way suitable to their different circumstances.

Preamble.

Be it therefore Enacted by the Governor, Council and Assembly, and it is hereby enacted :

That when any person shall be committed to prison, or now is detained there, upon execution for debt, who has not at the time of such commitment any visible, or other known estate, and no person appearing to pay the debt, or give security for the same to the creditor, or some way compound and settle with him within two months after such commitment, such prisoner shall have liberty to petition the court, granting or awarding such execution, or in vacation time any two of the justices of said court to admit him to take, and administer to him the following oath in this form, namely, I do solemnly swear, that I am not the owner of, and have no property in any estate real or personal, in possession or reversion, or remainder, nor in the possession of any person or persons for me of the value of three pounds lawful money (exclusive of one necessary suit of apparel) at any just and reasonable valuation, nor have I since the commencement of the action, on

Any person committed on execution for debt, who has no estate, nor able to procure security to the creditor, may within 2 months after such commitment apply to the court granting the execution, or in the vacation, to 2 Justices of said court, to be admitted to take an oath, showing his circumstances.

The oath.

which the judgment was obtained, by virtue whereof I am now detained, any way embezzel'd, destroyed, concealed, or transferred any such estate with a view of defrauding any of my creditors, or changed the possession of the same for that purpose, or for any advantage to myself or any depending on me for subsistence and support ; So help me God ——— And such court or justices shall order the clerk of said court to notify the creditor or creditors, if in this province, or the attorney who appeared in the cause or any factor or agent of such creditor or creditors, if not inhabiting this province, of such petition, and when and where the said oath is to be administred, giving reasonable time for the parties attendance, and the said oath being duly administred the prisoner, satisfying the prison keeper for past charges, shall forthwith be dismissed from the prison, unless the creditor or creditors or their factor, agent or attorney will engage to pay the sum of five shillings lawful money per week, to be paid weekly, or otherwise, as may be agreed with the prison keeper toward the support of such prisoner, and in default of performance by the space of one month after such payment becomes due, the prison keeper shall discharge the prisoner ; and if the prison keeper shall defraud the prisoner of any part of such allowance, upon complaint and proof thereof, to the satisfaction of the respective court, such prison keeper shall forfeit and pay, for the use of the prisoner, the sum of ten pounds like money.

The creditor to be notified.

The prisoner to be dismissed after due administration of the oath unless the creditor will pay the prison-keeper 5s. pr week toward the prisoners support.

Forfeiture of the gaoler if he defrauds the prisoner of any part of his allowance.

Any person committed on mean process, as well as any committed on execution, to have the liberty of the yard, &c. finding security.

The condition of the bond to be given on such occasions.

The bond to be transferred to the creditor if the prisoner escapes.

And be it further enacted, That any person imprisoned for debt or claim thereof upon mean process or execution, shall be permitted and allowed to have a chamber and lodging in any of the houses or apartments belonging to such prison, and liberty of the yard thereto belonging, in the day time only, but not to pass without the limits of the prison, which limits are hereby established and restrained to within one hundred feet of the walls of the prison, upon reasonable payment to be made for said chamber room, not exceeding one shilling per week, such prisoner giving bond to the sheriff with two sufficient sureties, being freeholders, to be bound jointly and severally in double the sum for which he is imprisoned, with the condition underwritten in form following, viz. The condition of the above obligation is such, that if the above bounden *A. B.* now prisoner in his Majesty's goal in Portsmouth in said proviuce, at the suit of *C. D.* do and shall from henceforth continue to be a true prisoner in the custody, guard and safe keeping of *J. S.* keeper of the same prison, and in the custody, guard and safe keeping of his deputy, officers and servants, or some one of them within the limits of said prison, until he shall be lawfully discharged, without committing any escape or escapes, during the time of his restraint, then this obligation to be void, or else to abide in full force and virtue. And in case of any escape, in such case such bonds shall be transferred and assigned over to the creditor or creditors by the sheriff, with full power to enable him or them to put the same in suit, and the creditor shall recover his just debt and damages, together with such sums as shall have been expended for the prisoners weekly support, by force of this act, against the principal and sureties, or any of them, which shall be

a full indemnity to the sheriff for such escape. *Provided* such sureties be approved as sufficient by the court or justices aforesaid respectively, and no other security but as aforesaid, shall be accepted.

Sureties to be approved by the court, &c.

And be it further enacted, That if any prisoner shall be detected of any fraud, deceit or falshood in the management of his estate, effects or money, to take the advantage of this act, he shall not be allow'd the same, but shall remain a prisoner, as if this act had not been in force.

Any prisoner detected of fraud, not to have the benefit of this act.

And it is hereby further enacted, That the oath aforesaid and the liberty granted thereupon, shall not be to any prisoner a discharge or release of the debt for which he was imprisoned, but he shall pay the same, together with the weekly charges as aforesaid, if he shall after such liberty, acquire or obtain any estate sufficient to pay it, or be in circumstances capable of paying the same, and the judgment shall remain uncancell'd, or not discharg'd 'till paid. *Provided* nevertheless, nothing in this act shall be construed to affect the rights of the crown or any ways to extend to them.

A prisoner not to be discharg'd of his debt by this act, in case.

[This act to be in force three years from the 3d of September 1767, and no longer.]

Limitation of continuance.

AN ACT IN ADDITION TO THE LAWS OF THIS PROVINCE FOR REGULATING THE MANAGEMENT OF SWINE.

Whereas the suffering Swine to run at large in the streets and highways of towns settled in a compact manner, is very inconvenient, and of no benefit to the growth of such swine—which are also extremely prejudicial in other places, going at large unringed, by getting into inclosures (which in that case they will always do) rooting up the soil, destroying the meadow and pasture land, and the fruit growing on tilled land; and though this might be prevented by keeping them regulated as the Law requires, yet are the generality of persons who own swine in such towns, so careless of injuring their neighbours, where there is only an imaginary advantage to themselves, that they can seldom be prevailed on to do it, or suffer it to be done:

Preamble.

Be it therefore Enacted by the Governor, Council, and Assembly:

That no Swine of any kind shall be suffered to go at large, or be out of the inclosure of the owner thereof—And if the owner of any swine of any sort or kind shall suffer them he owns, or is possessed of, so to be, and go at large out of his or her inclosure, he or she shall forfeit and pay the sum of six shillings for the first offence, and twelve shillings for the second, or any after offence, (except such owner shall make it appear the Swine so found at large was by some accident let out of his inclosure) to be recovered in an action of debt by any person who will prosecute for the same, before any Justice of the peace living in the town or

No person to suffer his swine to go at large out of his own inclosure under the penalty of 6s. for first offence, 12s. for every offence after.

May be recovered before a Justice of the peace by any

one who will prosecute.

place where the offence shall be committed, two thirds to the use of the prosecutor, and one third for the use of the poor there, with all legal cost to such prosecutor.

How to proceed where swine are found at large, but the owner not known.

And where any Swine shall be found runing at large, and the owner is not known, any person may exhibit an information thereof setting forth the artificial marks (if any) on such swine, or the most obvious natural marks, and the Justice shall give the informer three notifications, who shall place them at three different public places, in the town or place where the information shall be exhibited, and shall suspend giving judgment thereon forty eight hours next after giving such notifications: And if no owner shall appear at the expiration of that time, the said Swine shall be forfeited; and the said Justice shall declare the same to be forfeited, to the use of the poor of the town or place where the information shall be exhibited, and the Justice shall give sentence accordingly

To be sold in case.

The application of the money.

— (the overseers of the poor of the town or place paying the Justice his legal fees, and the informer six shillings or more, if the Justice on examining the circumstances, shall think he ought to have more, for his time and trouble for proceeding and attending therein.) But if the overseers refuse so to do, the informer may sell the same to the highest bidder, and the allowance to him being made as aforesaid, shall pay the overseers half the neat profit thereof for the use of the poor as aforesaid. But if any owner shall appear and claim said Swine, he shall be subject to the penalty or penalties first above mentioned, as the matter upon examination and trial shall appear to the Justice aforesaid. And any

Any person taking up any swine, the owner of which is unknown, may keep the same in custody.

person exhibiting such information shall hereby have full power to take up such Swine, and keep them in custody until the case shall be determined as aforesaid. And if the owner shall be acquitted, and the Swine restored, the said informant shall not be subject to any action or damages, for taking up and keeping such Swine in custody as aforesaid. *Provided nevertheless*, that any town or parish in this province, (except the compact part of the town of Portsmouth) may at their annual meeting adopt this act, and determine that the Swine in such town or place shall for the then ensuing year be regulated by this act; but if they omit so to do they shall be regulated by the other laws of this province, relative to the regulation of Swine. And that this act shall extend to the compact part of the town of Portsmouth only, that is to that part of said town contained within the following lines, viz. a line by the River, and running up that branch thereof, which leads to Mr. Levius's mills, and up the mill pond to the head of the creek, and then up the high way leading to the pound from the said head of the creek, aforesaid, and so along the way leading to the mill dam, so called, till it comes to the house formerly Edward Cate's, then to run down the highway leading to little harbour, so far as that a strait line to that part of the river, called little harbour, will take in the land lately Samuel Monson's.

Any town, &c. may adopt this act at their annual meeting.

The limits of this act in the town of Portsmouth.

Limitation of continuance.

[This Act to be in force three years and no longer, from the fifteenth day of Sept. 1767.]

AN ACT FOR ASCERTAINING THE EXCISE GRANTED ON SPIRITUOUS LIQUORS, RETAILED IN THIS PROVINCE, BY AN ACT PASS'D IN THE FIFTH YEAR OF GEORGE THE SECOND, IN LAWFUL MONEY, AND FOR PREVENTING FRAUD AND DECEIT, BY AVOIDING A DISCOVERY OF WHAT IS RETAILED, AND ENFORCING THE DUE AND REGULAR PAYMENT OF SUCH EXCISE.

Whereas by an Act pass'd in the fifth year of his late Majesty's reign, entitled, "An Act for granting unto his Majesty an Excise on several Liquors" — among other things it is enacted, "that there shall be paid by all tavern keepers, innholders, and retailers within this province, for all such Wine, Rum, and other Spirits, Cyder and Perry as they shall sell or retail, the Excise following, viz. by every tavern keeper or innholder, eight pence per gallon, on Wine, Rum, or any other Spirits, and for Cyder or Perry eight pence per barrel; by every retailer out of doors six pence per gallon, on Wine, Rum, or other Spirits" — which sums were meant and intended to be paid, in bills of credit of the old tenor, as they were afterwards called, which depreciated in value every year during their continuance which makes it necessary that an equivalent in lawful money should be fixed :

Preamble.

Therefore,

Be it Enacted, by the Governor, Council, and Assembly :

That for the eight pence per gallon, granted by said act, shall, and may be taken in lieu thereof, the sum of two pence three farthings lawful money; and for the six pence there mentioned, two pence lawful money, and for the eighteen pence there mentioned, six pence lawful money. And this Excise shall be paid as in said act is directed, or to the time of payment and allowance for wastage; and every tavern keeper and retailer shall render his or her account upon oath, as is herein directed, and shall pay the ballance or sum due by such account, to the receiver of said excise, or give security for the same as the receiver, and he or she may agree, and in default thereof shall forfeit and pay the sum of four pounds, to be recovered by the receiver of said excise, upon his complaint to the court of general sessions of the peace, and conviction thereof, before said court, who are hereby authorized to hear the same, and give judgment therein according to the merit of the cause, and award execution thereon, which sum shall be applied to the use of the government.

The several rates of Excise as now stated.

Forfeiture for not rendering.

And be it further Enacted, That every person, who shall sell any of said liquors, without licence, first had according to law, shall forfeit and pay the sum of two pounds, to be recover'd and applied as in said act is declared. And any master of vessel, or any under him in any place within this province, who shall sell any of said liquors, contrary to said act, he shall forfeit and pay the sum of two pounds to be recover'd and applied as in said act is declared. And any person who shall be summoned to give

Penalty for selling without licence.

Penalty on masters of vessels for selling without licence.

Penalty for refusing to give evidence.

Lending, &c. the same as selling.

Limitation of continuance.

evidence, in any cause depending on any matter, suppos'd to be a breach of said act, or of any offence against this act, who shall not duly attend according to the summons, or shall refuse to give evidence of what he or she knows of the matter in question, such offender shall forfeit and pay for every instance of such offence the sum of two pounds.

And be it further Enacted, That all giving, lending, or commuting of any of said liquors, either as a reward or for labour, or encouragement to labour, that may diminish the price of hire or wages, or to charge upon any other commodity, or thing whatsoever, whereby the person so giving, or lending, or commuting, may directly or indirectly be remunerated, or reimbursed therefor, shall be esteemed, construed, and adjudged to be a sale, and shall be subject to the regulations, provisions and penalties aforesaid.

[This act to be in force for the term of one year and no longer, from September 24, 1767.]

AN ACT IN FURTHER ADDITION TO AN ACT, INTITLED AN ACT FOR THE RELIEF OF IDEOTS AND DISTRACTED PERSONS.

Preamble.

Whereas the provision made in and by an Act made and passed in the 13th year of the reign of Queen Anne, intituled, An Act for the relief of Ideots and distracted persons, only respects such ideots, persons, non compos, or distracted (whose near relations refuse to undertake the care of providing for them) and whose circumstances may finally require the sale of their lands, or their persons to be put out to labor, in order to prevent any charge to the town, where such distracted person or ideot is an inhabitant, and no method prescribed in the said Act how it may be inquired of and known whether the person said to be a lunatick, ideot, or non compos, be so or not; and for the securing the estate of such ideot or distracted person from imbezzlement:

Therefore,

Be it Enacted by the Governor, Council, and Assembly, and it is hereby Enacted:

The Judge of probate to appoint guardians for Ideots.

What the select-men are to do.

That it shall be in the power of the Judge for the probate of wills, and for granting letters of administration for and within this province, from time to time (upon request made by the relations or friends of any ideot, non compos, lunatick or distracted person, or the overseers of the poor, in such town where the said ideot or distracted person lives, or is an inhabitant) to direct the select-men of such town to make inquisition thereinto; and if the person, said to be an ideot or distracted, shall be so determined, by the Judge of probate and select-men of the town (or major part of them) wherein such ideot or distracted person lives, then and in that case, the Judge of probate shall assign and appoint

some suitable person or persons to be guardian or guardians of such ideot, or non compos, directing and empowering such guardian or guardians, to take care as well of the person, as estate both real and personal, of the said ideot or distracted person, and to make a true and perfect inventory of the said estate, to be return'd to and filed in the registers office of the court of probate, within this province.

Inventory of his estate to be inventoried.

And be it further Enacted by the Authority aforesaid, That the Judge for the probate of wills and granting administrations, within this province, be and hereby is fully authorized and empowered to call before him, and to require and administer an oath unto any person or persons, probably suspected of making any concealment, imbezzlement, or conveying away any of the money, goods or chattles of any such ideot, non compos, lunatick, or distracted person, as well upon the complaint of any heir, creditor, or other person, having lawful right or claim to, or in such estate, as of the said guardian or guardians; and in case any such suspected person was betrusted by the said ideot, non compos, lunatick, or distracted person, or was otherwise conversant with, or near unto him in the time of his lunacy or distraction, or is in possession of the estate, or any part thereof, whereby to strengthen and make the suspicion more violent, and shall refuse to clear and acquit him or herself upon oath, it shall and may be lawful for the Judge of the probate, and he is accordingly empowered and directed to commit such person or persons so refusing to swear, unto the goal of this province, there to remain until he or she shall comply to discharge him or herself, upon oath, as aforesaid, or be released by consent of the guardian or guardians, heir, creditor, or other person, having lawful right or claim to or in such estate as aforesaid.

Power of the Judge to imprison.

And be it further Enacted by the Authority aforesaid, That the guardian or guardians appointed as aforesaid, shall improve frugally, and without waste, and destruction, the estate of the ideot, non compos, lunatick, or distracted person, and apply the annual profits, and incomes thereof for the comfortable maintenance and support of the said ideot, lunatick, non compos, or distracted person, and also of his household or family (if any such he have) and that the said guardian and guardians be and hereby are empowered to settle accounts, receive, and (if need be) sue for and recover all such just debts as shall be due to the said ideots, distracted person, or non compos, from any person or persons whomsoever, and to manage, improve, divide, or take care of the real estate of such ideot, or person distracted, or non-compos, in as full and ample a manner, as the said persons could or might do were they restored to their right mind; and also shall be subject to the payment of all such just debts, owing by such persons, which were contracted before their distraction, out of the personal estate, of such ideot, persons non compos, or distracted, or (in case that be not sufficient) then out of the real estate, being first empowered to make sale thereof, or of such part thereof, as is sufficient for the end, by the Justices of the superior court of judicature, upon application to them made therefor; and in case the said distracted per-

Guardians to account for the profits, &c.

What to be done when the ward shall be restored.

sons shall come or be restored to their right mind, the residue of his or her estate, both real and personal, shall be delivered and returned to them or to their respective heirs, executors, or administrators, in case of their death, as the law directs, the guardian or guardians having first such a reasonable allowance out of the same for their charges and trouble, as the Judge of probate shall order.

Guardians to
give bond.

And be it further Enacted by the Authority aforesaid, That the guardian or guardians appointed as aforesaid, shall give bond to the Judge of probate for the time being, in a reasonable sum, with sufficient sureties, for the faithful discharge of the trust in them reposed, more especially for the rendering a just and true account of their said guardianship, when and so often as they shall be thereunto required, saving always the right of appeal to the Governor and Council, as a supreme court of probate, as is practised in other cases, from the sentences and decrees of the Judge of probate.

Guardians to
defend suits, &c.

And it is hereby further Enacted, That the guardians so appointed, shall have full power to defend any suit, action or process that is or shall be prosecuted against any lunatick, non compos or distracted person, and be pending at the time of the appointment of such guardian, that no injury may be done to such lunatick, non compos or distracted person, or his estate, nor any just and lawful creditor defrauded, delayed or kept out of his just demand: and the estate of such lunatick, non compos, or distracted person, shall on execution, be liable to be taken to satisfy the final judgment which shall be recovered in such case, as it might be if no such disability had ever happened. *Provided nevertheless,* That — any person being by profession a Quaker, shall be allowed to take his or her solemn affirmation instead of the oath, when thereto required, as aforesaid.

[This act to continue and be in force five years, from the 8th of September 1767, and no longer.]

*Anno Regni Regis GEORGII Tertii Magnæ Britannia, Franiæ
& Hiberniæ Octavo.*

AN ACT IN AMENDMENT OF THE ACTS FOR ESTABLISHING FEES
BELONGING TO THE SEVERAL OFFICERS IN THIS PROVINCE.

Whereas by an Act passed in the fourth year of King George the First, and by another Act passed in the fourth year of his late Majesty, King George the Second, the fees therein expressed, were established, and appointed to be paid in bills of credit of this Province, which by their depreciation and the alteration of the money, the fees appointed to be taken by the said Acts are become uncertain, and are moreover defective, omitting sundry services, often to be done, which makes an amendment necessary:

Therefore,

Be it Enacted by the Governor, Council, and Assembly :

That from and after passing of this Act, the establishment of the Fees belonging to the several Officers hereafter mentioned, in this province be as follows: *Videlicet.*

Fees of Justices of the Peace in Civil Actions.

For every writ of summons or writ of attachment with summons, one shilling.

Subpœna for each witness, one penny, half penny.

Entering an action or filing a complaint, two shillings.

Writ of execution, two Shillings.

For entering up judgment, nine pence.

For every adjournment at the request of either party, one shilling.

Attorney's fees for drawing a writ or pleading for a defendant, three shillings.

For filing papers in the case, each one penny half penny.

For taxing a bill of cost, four pence.

For granting an appeal and taking recognizance for prosecution, one shilling.

For copies of the case on an appeal, eight pence per page, of twenty eight lines, and eight words in a line, that is for two hundred and twenty four words.

And for every copy less than such a page six pence.

For every certificate on the whole copy of a case, six pence.

For entering a satisfaction of a judgment on record, six pence.

For taking affidavits out of court for the trial of any cause, in any other court one shilling, and if the Justice shall travel, to swear the witness he shall be allow'd twenty four pence, for every ten miles, his travel to be certified on the affidavit, also how far the witness travelled and how long he attended.

In other cases, examining and entering certificate, six pence.

For taking affidavits in perpetuam, one shilling to each Justice.

For taking the acknowledgments of instruments, with one or more seals, if done at one time, each instrument, one shilling.

For granting a warrant, and swearing appraisers in any case, one shilling and six pence, for warrant and administering the oath.

For swearing one or more witnesses to the execution of an instrument, or swearing any person to an account and certifying the same, one shilling.

In Criminal Actions.

For every warrant for breach of the peace or other criminal offence, two shillings. For the attorney or justice who draws the complaint, and one to the justice for signing the same.

For entry of the complaint and judgment thereon, the same as in civil actions, two shillings.

For recognizance and appeal the same as in civil cases, as also all copies of cases and filing of papers.

For every order for binding over in such cases wherein any supposed offender is liable by law to be tried at an higher court, and taking a recognizance for their appearance, two shillings.
 For letting any Person in prison to bail in such cases as one or more justices has cognizance, two shillings each.
 For every examination wherein a justice is by law authorized to take the same, two shillings.
 Taking and recording confession of criminals on examination, one shilling.

In Cases of forceable Entry and Detainer.

To the justices for every day's attendance, six shillings each, which is to be in full for all process and proceedings by him or them issued.
 For witnesses in such cases the same as in the courts.

Justices Fees at the General Sessions of the Peace.

For each day's attendance at the court to be paid out of the treasury, four shillings to each by a certificate from the clerk.
 For every licence to retailers and tavern keepers, three shillings, one third to be for the clerk and the remainder to be put into the treasury.
 For entry of actions, as in the inferiour court.
 Every recognizance in criminal cases, one shilling, one third to the clerk.

In the Inferiour Court Justices Fees.

For every action entered, five shillings and four pence.
 Every bill of cost taxed, six pence.
 Every appeal and recognizance for prosecuting, one shilling.
 For proving a deed in court by swearing, the witnesses, one shilling.
 For granting a writ of protection one shilling.

Clerks Fees.

For every action entered, one shilling and four pence.
 For recording a verdict, eight pence.
 For every writ and seal, six pence.
 For recording a judgment, one shilling.
 Summons when goods are attached, four pence.
 For every recognizance, one shilling.
 Copies of all cases and papers as in the justices fees.
 For every execution, one shilling and four pence.
 For every continuance, eight pence.
 For entering a satisfaction of judgment, eight pence.
 For a writ of protection, one shilling.
 For each venire to be paid out of the province treasury by order of the court, three pence.
 For a writ of facias habere possessionem, two shillings.

Entering an appearance of record at the request of either party,
four pence.
Examining each bill of cost, six pence.
Filing papers, one penny each.

Clerk of the Sessions Fees.

For entering a complaint or indictment the same as an action at
the inferiour court, one shilling & four pence.
For every warrant for criminals, one shilling.
For every subpoena for witnesses, one penny half penny.
For discharging a recognizance, eight pence.
Every recognizance, one shilling.
For examinining & casting the grand jury's accounts yearly &
order thereon to the treasurer by the direction of the court, one
shilling & six pence to be paid by the province treasurer.
For entring up judgment or entring satisfaction of judgment on
record, one shilling.
For copies as before, eight pence per page.
For filing papers, one penny each.
For transmitting to the select men of every town the names of
such persons in such towns licensed the year before the last
choice of select men, three pence to be paid by the person
licensed.

Superiour Court, Justices Fees.

For every action entered, sixteen shillings.
For every complaint enter'd, sixteen shillings.
For taking special bail to the judges, two shillings.
For allowing an habeas corpus to the judges, one shilling and four
pence.
For taxing each bill of cost, eight pence.
For hearing & granting petitions the same as complaints, sixteen
shillings.
For granting a writ of protection, one shilling.
For granting every appeal to the court of appeals, two shillings.
For proving a deed in court, one shilling.
For every criminal tryal where the criminal is acquitted, to be paid
out of the treasury by the clerks certificate signed by the chief
justice as in other cases.

Clerk of Superiour Court Fees.

For every entry of actions, four shillings.
For entering a complaint for not prosecuting an appeal, two
shillings.
For entering a judgment and recording it at large, two shillings.
For a writ of review, three shillings.
For a scire facias, three shillings.
For a writ of excution, one shilling and six pence.
For a writ of habere facias possessionem, three shillings & six
pence.

For a writ of habeas corpus, two shillings.
 For copies of all records, papers and cases, nine pence, every page of twenty eight lines, & eight words in a line, or two hundred and twenty four words; any part less than a page, six pence.
 For entering an appearance at the request of any party, six pence.
 For entering on record, a satisfaction of a judgment, eight pence.
 For examining a bill of cost, eight pence.
 For every continuance at the request of either party, one shilling.
 For filing papers, one penny half penny, each.
 For proving a deed in court, and certifying the same, one shilling.
 For each venire to be paid out of the province treasury on the justices certificates, three pence.
 For every writ and seal other than those before mentioned, two shillings.
 For every subpoena for a witness one penny half penny.
 For every Recognizance, one shilling.
 For every appeal to the court of appeals and recognizance, one shilling.
 For a writ of protection, one shilling.
 For discharging a recognizance, one shilling.
 For every certificate on a copy of a whole case on an appeal or review, six pence.

Sheriff's Fees.

For the service of a writ of summons or scire facias either by reading it to the defendant, or by leaving a copy, one shilling for each defendant.
 For service of a capias or attachment without a summons, one shilling and four pence, for every defendant.
 For service of an attachment with summons, one shilling and four pence, for each defendant.
 For a bail bond to be paid by the person bailed, one shilling.
 For serving a writ of facias habere possessionem, the same as for serving the original writ on which it was obtained with poundage for the costs as in personal actions.
 For levying execution in personal actions for the first twenty pounds, nine pence on the pound, above twenty to forty pounds four pence only on the pound, from forty to an hundred pounds two pence on the pound, and for all above an hundred pounds one penny per pound.
 For travel for the service of each execution or writ in mean process to him directed, two pence per mile, the travel to be computed from the place of service to the court to which the writ or execution is returnable by the way that is most commonly used; and when there are several persons in the same writ or execution upon whom it is served, the travel shall be computed to the remotest of them, and but one travel, or no more to be allowed for the travel than if it was served on one person.
 The travelling fees and fees of service to be indorsed on the writ, that in mean process the party may know what to charge in his bill of cost and in the case of executions, may be able to sup-

port a complaint if oppressed, and the officers shall receive no more than he indorses.

For summoning witnesses in civil causes no more than the party is allowed when he does it, viz. one shilling.

For serving an execution upon a judgment of court for partition of real estates, to the sheriff five shillings per day, and for travel and expences three pence per mile, each juror two shillings per day, and for travel three pence per mile each.

For every tryal, eight pence, to be paid with the jury's fees.

For every default, four pence.

For making out every precept for the choice of representatives, sending the same to the towns respectively and making return, one shilling and four pence, to be paid out of the treasury.

To the officer attending the grand jury each day, two shillings each day.

To the officer attending the petty jury, nine pence every case.

For dispersing venires from the clerk of the superiour court and the province treasurers warrants to be paid out of the treasury, four pence each.

For dispersing and sending proclamations to the respective places directed, six pence each, to be paid out of the treasury.

Coroner's Fees.

For serving writs of every kind, the same as the sheriff's, as also for travel.

For every tryal where the sheriff is concerned, eight pence.

For taking an inquisition, to be paid of the estate of the deceased, five shillings, if more than one at a time, seven shillings and six pence, if no estate, to be paid out of the treasury.

For travelling and expences for taking an inquisition, four shillings each day.

The foreman of the jury, three shillings, and ten miles to be accounted a day's travel, one shilling per day, every other juror, two shillings & six pence, and travel the same as the foreman.

To the constable for his expences summoning the jury and attendance, four shillings per day, constables to be paid for the service of writs and warrants directed to him as the sheriff's.

Cryers Fees.

For calling and counting the jury when first settled, four pence.

For every default or non-suit, eight pence.

For every verdict, eight pence, to be paid with the jury's fees.

Judge of Probate, and Registers Fees.

For granting administration or guardianship, six shillings, including the bonds, letters of guardianship, and administration, whereof two thirds to the register, if more than one minor to be put under the same guardian at the same time, then for

- every one above one, to the judge six pence, and to the register, one shilling.
- For taking the proof of a will or codicil, entring the oaths of the witnesses and certifying the same and recording the whole, if but one page, six shillings, whereof two thirds to the register, if more than one page, then for every such page the same as above mentioned for the clerk of the superiour court to the register only.
- For all copies made by the register, nine pence a page, the pages containing as aforesaid, and for any part less than a page, six pence.
- For allowing, and examining accounts of administration or guardianship, two shillings a page.
- For allowing and making a decree on such accounts, three shillings.
- For recording said accounts the same as to a clerk of the superiour court.
- For every allowance and confirmation of the division of any real estate, three shillings.
- For recording such division to the register by the page as the clerk aforesaid.
- For every citation, one shilling to the register.
- For every order or warrant for dividing real estates, one shilling to the judge, and to the register, two shillings.
- For every commission to examine claims on insolvent estates, two shillings to the register, and for an order from the judge, one shilling.
- For making the proportion among the creditors of an insolvent estate, to be allowed six shillings for every twenty creditors, and in that proportion for a greater number: for a copy thereof, for the administrator or executor, and recording the whole, as the clerk of the superiour court by the page.
- To the judge for a decree or order to the executor or administrator to pay the several creditors, according to the computation and proportion aforesaid, two shillings.
- For a quietus to the judge, one shilling, to the register, one shilling.
- For attending a dispute, concerning the right of parties in any case and an hearing by council, six shillings, including the decree thereon, between the judge and the register equally.
- For granting an appeal to the supreme probate, and for taking bond for prosecution, three shillings, to be equally divided as above.
- For passing an order for putting any bond in suit, two shillings to the judge and register, to be divided equally.

Fees in the Secretary's Office.

- For every certificate under the seal of the province, three shillings. For every warrant, three shillings.
- For every bond by the law to be taken by the Secretary, three shillings.

- For every petition to the General-Assembly, three shillings.
- For every bill of health, three shillings.
- For all copies, nine pence, containing as aforesaid, and six pence for less than a page.
- For every commission for any office under the province seal for places of profit, six shillings, to be paid by the person commissioned.
- For every order of council for the benefit of particular persons which lays before the Council only, two shillings.
- For every writ of electing assembly men, directed to the sheriff, five shillings, to be paid out of the publick revenue.
- For entering the public and private acts or laws into a book, to be paid by government by the page, as aforesaid.
- For all military commissions, and commissions for special justices of courts, and all commissions for standing courts, to be paid out of the publick revenue, three shillings, each commission.
- For entry of actions to come before the court of appeals, for judgment, taxing costs, and every other act of the court, six shillings.
- For entry of an appeal from the judge of probate, and recording decree thereon, six shillings.
- For taxing each bill of cost, one shilling.
- For a warrant to survey land or other real estate to ascertain the value, to know if the court of appeals can sustain the suit, one shilling.
- For a warrant of division of any real estate upon an appeal to the supreme probate, two shillings.
- For entry of any decree relating to the allowance of any will on appeals as aforesaid, two shillings.

Court of Admiralty's Fees.

- To the advocate for drawing a libel, six shillings.
- To the judge for allowing the same, six shillings.
- To the register for filing, five shillings and four pence.
- For a citation for appearance, seal and service, viz.
- To the judge, two shillings and eight pence.
- To the register, two shillings and eight pence.
- To the marshall, three shillings and three pence for service.
- For a summons for witnesses and seal, viz.
- To the judge, one shilling, and nine pence.
- To the register, one shilling and nine pence.
- For filing papers and taxing costs, viz.
- To the judge, one shilling and nine pence.
- To the register, one shilling and nine pence.
- For an interlocutory decree and recording, viz.
- To the judge, six shillings.
- To the register, one shilling and nine pence.
- To the marshall, five shillings and four pence.
- To the cryer, one shilling and nine pence.
- To the register for an enactment, one shilling and four pence.

For decree definitive and recording, viz.

To the judge, sixteen shillings.

To the register, six shillings.

To the marshall for every evidence, summoned within a mile of the court, six pence: if above one mile of the court, three pence per mile.

To the marshall for bail bond, to be paid by the person bailed, one shilling.

For levying execution, the same as the sheriff.

For travel, as in the sheriff's fees.

For executing a warrant for debtors, deserters, &c. on board a ship at the wharfe, five shillings and four pence, if at newcastle, or up the river above Portsmouth, twelve shillings.

For taking a vessel into custody, upon an arrest for wages, eight shillings.

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REPORT FROM RAILROAD COMMITTEE.

STATE OF NEW HAMPSHIRE.

HOUSE OF REPRESENTATIVES.

JANUARY SESSION, 1893.

Whereas, it is the duty of the legislature to guard the reserved rights of the people and to be wary in the alienation of those rights by the exercise of the power of eminent domain, or by its transference to others, giving one individual the power to control the estate of another to private or personal advantage ;

And, whereas, there is always imminent danger that corporations or individuals may acquire such control to the detriment of the state ;

And, whereas, numerous charters are sought of this General Court, and many existing corporations solicit an increase and extension of their corporate powers over the highways and indi-

vidual estates of the people, ostensibly for public convenience, but chiefly for corporate profit, and open to the suspicion of speculative purposes ;

And, whereas, the use of electricity as a motive power is no longer an experiment, but is to be recognized as an established factor in methods of public communication, not merely local but for extended traffic ;

And, whereas, the application and use of so powerful an agent should be placed under wise and watchful supervision not only for the protection of property but from due regard for the personal safety and lives of property owners and of persons travelling upon public roads upon foot or in private carriages, all calling for cautious, well digested, and uniform laws, assuring the state of its rightful ascendancy and control ; Therefore be it

Resolved By the House of Representatives, the Senate concurring : That the railroad commissioners be requested and instructed to examine and make due inquiry, and report to this or the next session of the General Court, by bill, special report, or both, what general legislation, if any, the public good requires, in reference to the powers to be conferred upon, or exercised by, railroads operated by other than steam power ;

and that, pending such examination, and until such report is by the General Court received, all bills providing for the incorporation of such railroads, or enlarging the powers of those already chartered, lie upon the table or be postponed until the next session of the general court, except in cases where additional legislation with reference to existing and new charters may be clearly demanded to subserve the public interests.

GEO. C. GILMORE,
For the committee.

